

PR18 Initial Consultation responses contents list

Stakeholder	Pack Page number
Abellio Group	3
Andrew Cordiner	6
Arriva UK Trains Ltd	8
Association of public transport users	12
British Steel	15
Campaign for Better Transport	17
Campaign to Protect Rural England	24
Carillion Rail	29
Chartered Institute of Logistics and Transport	33
Chris Fox	38
Civil Engineering Contractors Association	41
CoallmP (Association of UK coal importers and producers)	44
Croydon Council	49
Cumbria Local Enterprise Partnership	52
DB Cargo (UK) Limited	88
DB Regio Tyne and Wear Ltd.	100
Department for Transport	103
Drax Power Limited	109
East Coast Main Line Authorities	116
East Sussex Rail Alliance	121
Essex County Council	125
Europorte	129
First Group	130
Freight on Rail	134
Freight Transport Association	136
Freightliner Group	140
GB Railfreight	155
Go Ahead Group	161
Historic England	166
IOSH Railway Group Committee	169
John Cartledge	170

PR18 Initial Consultation responses contents list

Stakeholder	Pack Page number
John Penrose MP	173
Local Government Association Public Transport Consortium	175
LondonTravelwatch	177
Merseyrail	180
Merseytravel	183
Network Rail	188
North East Rail Management Unit	203
Rail Delivery Group	208
Rail Industry Association	218
Rail Freight Group	225
RMT (National Union of Rail, Maritime and Transport workers)	233
RSSB (Railway Safety and Standards Board)	249
Sustainable Development Steering Group (RSSB)	255
SESTran (South East of Scotland Transport Partnership)	260
Siemens Rail Automation	263
Stagecoach Group	264
Strathclyde Partnership for Transport	268
Transport Focus	275
Transport for London	285
Transport for the North and Rail North	289
Transport Scotland	299
TravelWatch SouthWest	303
Urban Transport Group	307
VTG Rail UK Ltd.	315
Welsh Government	316
West Coast Trains	318
West of England Local Enterprise Partnership	326
WSP Parsons Brinckerhoff Ltd	330

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John Larkinson
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Office of Rail and Road
1 Kemble Street
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Date 12 August 2016

By email

Dear John

Response to 2018 periodic review of Network Rail (PR18), Initial Consultation

1. We understand that you received RDG's response to the above on 10 August. We are supportive of that submission, and will continue to play an active part in the working groups that the RDG has established to generate industry discussion and engagement on PR18.
2. This letter sets out a number of areas that are particularly important to us as a train operating group owner. It does not seek to replicate the RDG response.

Passenger focus

3. We agree that the best way to drive efficiencies, value for money and consistency of service is for rail infrastructure management (and the rail industry as a whole) to centre on the needs of passengers. We also agree that Network Rail's deliverables should be prioritised on this basis.
4. The challenge, however, is to collate passenger views and then translate them into meaningful requirements that Network Rail can deliver on time and to budget. Effective route based regulation would undoubtedly assist this process

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because it would allow local passenger interests to come more easily to the fore.

5. Vast amounts of passenger data is collated as part of the franchise process, initially by the DfT/regional funders as part of their initial consultation and subsequently by the potential franchisees as they build their bids. Alignment and coordination with the franchise process, and any reform of it, is therefore imperative. In particular, it would be worth considering making franchise requirements a core input to Network Rail's business plans, at both the system operator and route levels. This would optimise resource, allow Network Rail to focus on collating and reviewing passenger data to inform its plans beyond the end of the current franchise terms and create a "pipeline" of relevant passenger requirements. It would also help promote closer working relationships between the routes, train operating companies and system operator function, and allow for the development of common, passenger focussed goals.

Metrics

6. Effective route based regulation would require symmetric, accurate data to be transparently reported between routes. This data should be reflective of passenger needs. We are therefore supportive of the National Task Force's work to develop new performance metrics for CP6 which will move the industry towards right-first-time metrics. We also think that, whilst we should not rely on them, there is continued merit in comparisons with other overseas rail networks and other customer focussed, network industries in the UK and beyond.

Technological change

7. Significant technological change that increases network capacity, including the development of the "Digital Railway" concept, is a sensible long term ambition: innovation in areas where capacity is scarce is critical to the long term success of the railway. There are parts of the UK where capacity is not an issue, though, and established technology could be utilised more widely to deliver tangible, cost effective and timely passenger benefits. This approach has been effectively deployed in other countries, like Japan.

Incentives

8. There is wide scale agreement across the industry that financial penalties imposed on Network Rail are not effective or appropriate. The ORR's suggestion to make greater use of reputational incentives by formally and transparently recognising achievement of route management teams in delivering improvements (including performance based remuneration) is consequently welcome. It is crucial that any regulatory change allows, and

encourages, Network Rail to develop an organisation which attracts talent from a wide range of sectors and fosters a culture of ambitious delivery and innovative thinking.

Enhancements

9. There are a number of examples in CP5 where infrastructure project timelines have significantly slipped, and budgets have soared. PR18 presents an ideal opportunity to improve the way enhancement and maintenance projects are delivered – to time and on budget – in CP6.
10. Given that some CP5 projects will now be delivered in CP6, we believe the option for a government funder to be able to choose to manage the enhancements that they fund in a continuous process that is not linked to the conventional periodic review cycle has merit, particularly if it is aligned with the franchise process.

We appreciate the ORR's flexible and transparent approach to PR18, and look forward to engaging on the detail going forward.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Charlotte Twyning".

Charlotte Twyning
Director of Policy, Strategy & Communications

PR18 consultation responses

Name: Andrew Cordiner

Are you responding as an individual or representing the

views of an organisation?:Individual

Job Title: Chartered surveyor

Comments on chapter 2

The 2012 and 2013 Major Projects Review highlighted that the Department for Transport and HM treasury could not fund the High Speed Train and meet the funding needs of the Network Rail Upgrade program. Since then, there have been a significant number of rail projects cut or "delayed". Meanwhile, the budget for the High Speed Train has risen from £32bn to £60bn and continues to rise. This project has had an exceptional influence on construction prices for rail projects before it has even started to build. Given we have shortage in just about every area of rail construction expertise together with materials and the High Speed Rail program is about to commence construction, it is self-evident that the MPA were correct in their statement and that PR18 Review must consider the impact the High Speed Train project is having on existing rail funding together with future funding and in particular the influence it will have on funding constraints and rail construction inflation.

Furthermore, we understand that the cost to maintain the High Speed line are 3x more than current maintenance of existing high speed networks in UK. Therefore PR18 Review must consider the impact of a substantially increased maintenance cost for a new rail line and the impact this will have on the cost of maintaining the existing network.

Comments on chapter 3

The Chief Information Officer for High Speed 2 has stated that the High Speed Train is not about passengers but is really about freight capacity. Given that freight is so highly subsidised, it appears a significant and unprofitable deployment of taxpayers cash to build High Speed 2 to simply create capacity on the West Coast and East Coast lines for rail freight. Given that the original proposal of the Great Central Freight Railway was estimated to cost only £6bn, a 1/10th of the current price of HS2, it would suggest that if we are to build a new rail line in the UK, if that rail line is for the purposes of freight then we should opt for the cheaper line as this is far more productive and makes far greater savings for the taxpayer and the industry as a whole. Furthermore, given that rail freight degrades the lines more and therefore requires more maintenance, the deterioration of the West Coast and East Coast mainlines will be exacerbated leading to greater and earlier replacement costs for both lines. Given Railfreight in the UK is subsidised by passengers and the taxpayer and contributes less than 1% of network rail revenue, it is therefore clear that the deterioration cost of the accelerated deterioration cost of the current high speed network on the East and West Coast must be taken into consideration by PR19 Review.

Comments on chapter 4

No comment.

Comments on chapter 5

If PR19 and CP6 does not take into consideration the points highlighted in Chp 2 and 3, it will be setting unrealistic objectives and aims that cannot be achieved under the existing funding package. Given the MPA statements outlined in 2012/13, this is clearly a contributing reason for the failures of previous CP4 and CP5. Without the High Speed Project, more funding would be available to the Network as would staff and lower construction costs/less inflation.

A reminder that CP4 98 out of 118 projects were completed falling to 61% completed in CP5. The fact that the metric was changed from numbers to percentages is very telling in itself. Secondly, passenger targets were missed in CP4 and despite the lower base there was further deterioration in CP5. Furthermore in CP4 and CP5 rail disruption as a consequence of upgrade works were also unacceptably high.

The ORR and DFT cannot continue to pretend the High Speed Project is having no effect on their performance targets or ability to deliver. It is a distraction in the extreme but its funding and the focus of the rail industry towards what is simply a shiny new line, has rendered the ability of the Network to decline to unacceptable levels. CP6 and PR18 Review must make a stand for the importance of the network as a whole and to ensure passenger needs are met.

Comments on chapter 6

The draft timetable was delayed unacceptably from 2013 to 2016 to ensure that the additional capacity available on the West Coast Line was not revealed and in doing so would undermine the case for the High Speed Network. The fact the timetable review was delayed is in itself a terrible impact on rail passengers but it has also denied access for new services by operators such as Virgin. This is a wholly unacceptable way to run a Network and when the Judicial Review into the High Speed Line is presented, I reserve the right to introduce this as evidence and seek to question Executives from the ORR and Network Rail.

8th August 2016

Introduction

These comments in response to the ORR's initial PR18 consultation are made 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) and XC Trains Limited (XC). 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.

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

PR18 Process

Arriva welcomes the structured approach to the PR18 activity laid out by ORR – in particular,

- the clear identification of the context for PR18 and the associated influencing factors,
- the focus of the objectives of PR18 on delivering benefits for end users (passengers and freight customers)
- the clear identification of prioritised areas for consideration during PR18
- the staged approach using Working Papers for incremental engagement with the rail industry on identified priority areas to allow ideas to be refined progressively.

This has allowed Arriva and RDG to organise suitable resources to engage with ORR to progress the necessary activity in an incremental way rather than try to deal with a very wide range of open issues at the back end of the available time window.

However, in this context, Arriva would observe that it is to be preferred that the process laid out in the Initial Consultation is followed so far as is practical, the priority areas are focused on without additional workstreams commencing in an uncoordinated manner and that engagement with the RDG groups established to support PR18 activity is maintained as a key point of interface. If this approach were not to be followed, it could be expected that input that the industry could provide to PR18 would be less effective with the risk of a bow wave of unresolved issues building up.

Associated with this, Arriva would suggest that ORR builds its continuing PR18 work on the firm conclusions reached by RDG through the preparatory work done in 2015 on the Structure of Incentives and Charges. In that context, Arriva is concerned that significant workstreams have emerged outside the identified work programme and outside the identified engagement structure on:

- Schedule 4 & 8 Performance regimes:

The RDG Review of Charges work concluded that the structure of the regimes was broadly satisfactory with some work to do on calibration and TOC on Self mechanisms. However, it would appear that ORR are considering a further extensive review of these regimes. Further, the RDG Review of Charges work also identified that the temporary arrangements put in place for CP5 for the associated Capacity Charge were highly unsatisfactory. However, it does not appear that ORR were intending to address this issue.

Arriva is encouraged that ORR have refocused this workstream on the established RDG PR18 Working Group and intend to examine the RDG proposals on addressing the concerns identified on the Capacity Charge.

- Variable Access Charging:

Again the RDG Review of Charges work concluded that the arrangements for the Variable Access Charges were broadly satisfactory with some potential to rationalise some of the minor charges and the electrification asset charges.

Arriva is therefore very concerned that ORR have indicated that they intend to undertake a re-examination of underlying evidence as to what proportion of Network Rail costs are traffic variable despite having addressed the same evidence in depth during PR13 and reached firm conclusions as a result. We are unaware of any new evidence and independently reviewed evidence compared with the position during PR13 when similar claims were advanced and found to be without evidence. We note that the suggestion made at that time of further cross-industry research, with appropriate external support, during CP5 has not been progressed. Unexpectedly reopening such matters at this stage has the potential to raise significant concerns about the Regulatory process and we strongly doubt the practicality of making sufficient progress to be ready for implementation in CP6.

Areas of Focus

Looking at the key areas of focus covered by the initial 5 working papers, Arriva has the following observations in addition to those provided in the RDG responses:

- Route Based Regulation:

Arriva welcomes an increased focus on the key point of contact between Network Rail and its direct customers. However, given the scale of the changes needed to make the relationship at this level significantly more effective, Arriva would suggest that an incremental approach to implementing direct and detailed Regulation may be needed to ensure that the Routes:

- Can organise themselves and resource the Regulatory activities which will be new to them in an effective way
- Remain focused on delivering to their direct customers and not develop a focus on the ORR as their primary customer.

To this end, an initial Regulatory focus on how effectively the Routes establish and undertake the new processes to engage and deliver to their direct customers would be appropriate. We also suggest further work is necessary to clarify the extent to which costs can genuinely be measured at Route as introducing Route-based regulation when a substantial proportion of costs are allocations of national overheads or average costing methodologies risks adding a large administrative effort for little practical benefit.

Arriva notes that ORR appear to be placing great store on the Route Scorecards that are emerging. However, ORR should note that the progress made in this area to date is not wholly satisfactory with little effective engagement with direct customers on their structure and content and very little actual deployment into day to day activity as yet. The Route Scorecards are an aspect of what is needed in the

future but the process by which they are established is also important if they and their equivalents are to assist in delivery of better outputs in the future.

- **System Operation:**
Enabling the industry to develop a proper understanding as to how and by whom system operation activities are delivered is a vital step forward in establishing how the industry can deliver better outputs more effectively in the future. As part of this, being very clear as to the system operation activities that Network Rail deliver will allow Network Rail establish effective internal organisational arrangements to deliver these system operation activities in a coordinated and efficient manner and be held appropriately to account. Arriva would suggest that this is the order in which these matters should be considered rather than identifying which elements of Network Rail's current functional structure should be subject to Regulatory scrutiny in this area.

In particular, Arriva would observe that the operational rules, asset management strategies and interface arrangements are key elements of system operation where a focused approach considering the key output objectives can deliver very cost effective improvements. Therefore, Network Rail's activities in this should be subject to suitable scrutiny and incentivisation.

In addition, when considering system operation, the widest possible definition of the system needs to be used rather than just focusing on the Network Rail infrastructure. Specifically, the consideration of system operation should encompass, rolling stock, rolling stock depots and stabling facilities, stations and freight terminals and interfacing networks – even when some of these assets may belong to or be managed by 3rd parties.

- **Outputs:**
Establishing suitable Output measures in a more complex environment with a Route based focus and considering Network Rail's system operation activities will be a challenging task. However, getting this right is key to being able to drive successful delivery of the industries objectives.

Therefore, Arriva suggest that the workstream considering these matters needs to run throughout the PR18 process to ensure that developing thinking is reflected in the defined Output measures.

In addition, the overall focus needs to remain on end user outcomes.

- **Enabling 3rd Party Investments**
Given the financial challenges facing the industry establishing Regulatory and other structures that enable 3rd party investment should indeed be a priority. In this context, the matters in consideration should be all encompassing and long-term if the industry is to succeed in this area.

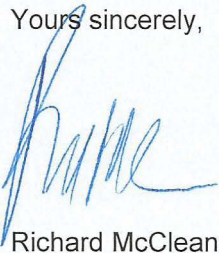
Conclusion

Arriva welcomes the approach proposed by ORR for PR18 and will continue to actively engage directly and through RDG.

The areas being focused on seem appropriate to the objectives to be addressed. However, as these areas address fundamental aspects of how industry parties interact, Arriva is concerned that urgent consideration needs to be given to the approach to implementing the necessary structural and process changes so that suitable resources can be put in place to make the new arrangements work. This in turn may need consideration to be given to an incremental approach to implementation to ensure that the changes are embedded.

It remains necessary for the PR18 work to be undertaken with due regard to other review and change activities such as the environment of on-rail competition and the reform of Franchising arrangements to ensure that the overall interaction of all these aspects of industry organisation work together to deliver the expected and desired outcomes.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Richard McClean', written in a cursive style.

Richard McClean
Managing Director
Grand Central Railway Company Ltd.

Response to ORR’s initial consultation on the 2018 periodic review of Network Rail (PR18)

This pro-forma is available to those that wish to use it to respond to our consultation. Other forms of response (e.g. letter format) are equally welcome.

Please send your response to pr18@orr.gsi.gov.uk by **10 August 2016**.

Full name	Neil Middleton
Job title	Chairman
Organisation	APTU (Association of Public Transport Users) – the Rail User Group for Thameslink North Stations West Hampstead to Harlington (Beds)
Email*	
Telephone number*	

*This information will not be published on our website.

Chapter 2: Context for the review

We invite stakeholders to comment on whether they agree with our view of the context for PR18 or whether they consider there are additional significant points. (If the latter, please explain how these might affect the review).

We agree with the context for the review, but believe that 2.5 “passengers are funding an increasing proportion of the costs of running the railway” needs greater emphasis in the overall approach – as funding of Network Rail, particularly for day to day expense, moves towards the passenger, this should be allowed for in the approach. In particular, this might be a factor in variations for route level management (the same principle also applies to the freight sector).

Chapter 3: Focusing the review where it can have most impact for passengers and freight customers

We welcome views on the proposed relative priorities for the review, as well as any other areas that should be prioritised (in which case, we would particularly value views on what should not be prioritised as a consequence).

We agree with these priorities. In all of these cases, it is important that users of the network (passengers and freight customers) are directly represented in setting priorities, determining the best combinations in case of conflicting need (eg the railway ‘open’ for services to run vs more time to for maintenance to improve reliability).

Chapter 4: Our proposed approach to the review

We would like to know if you agree with the overall approach that we have set out for the review.

We would also welcome additional suggestions and proposals for how we might adapt our regulation to the current context. It would be helpful if you could arrange your comments around the headings in the chapter (set out below) where these are relevant to your response.

Route-level regulation

We believe this is a critical aspect that should be at the core of your regulation approach. In addition to splitting by Network Rail route it is also important to consider the type of route and the proportion of the route's cost that is funded by the taxpayer vs the passenger / freight customer

System operation

We agree with this approach. In particular, there should be a move away from PPM towards measures that have much greater correlation with passenger impact. For instance, the classic 5 minute late test does not really distinguish between a train with 10 passengers that is 6 minutes late and one with 1000 passengers that is 29 minutes late (for 30 minutes late or more, Cancellations & Significant Lateness [CaSL] becomes relevant)

Outputs & monitoring

We agree with this change, which is also a critical aspect

Charges & incentives

No matters of note

Approaches for enhancements

No matters of note

ERTMS and related technology

No matters of note

Chapter 5: Developing the high-level framework for the review

We welcome views on how our high-level approach could be implemented and on the potential framework set out in chapter 5. As part of this, we invite thoughts on what it is practicable to achieve in PR18 and in CP6, and what might be more realistic to achieve in the subsequent periodic review.¹

¹ You may also wish to read and comment separately on the working papers that we will publish following this consultation document.

We would also welcome any further suggestions and ideas on how we might improve how we regulate Network Rail.

From the customer perspective, route level analysis is usually not sufficient for our purposes, as we typically want to understand this data at a significantly more granular level – for instance, in our case, Thameslink North, the Wimbledon loop, (Thameslink) Kent services and the Brighton Mainline. Whilst splits by route are very important to better understand out and under performance at the route level, this does not really help us understand where improvements et al might be needed to reduce delays to a particular service (such as Bedford / Brighton)

Chapter 6: Process and engagement

We would be grateful for comments on the proposed phases of the review, including any views on the [draft timetable](#) and our proposed approach to engagement.

We also invite high-level views on the process for customer engagement by Network Rail's routes and the system operator to inform their business plans, in terms of what is achievable for this review.

We would also welcome any views on how Network Rail and train operators would like to engage and be involved in the implementation process for PR18 and any thoughts on the process relating to Network Rail's right to object to our determination.

We are pleased to note that in paragraph 6.20, the importance of taking account of customer interests is recognised. This is critical.

Any other points that you would like to make

None

Thank you for taking the time to respond.

British steel response to PR18 initial consultation document

Please find British Steel response and position in terms of the Periodic Review 18.

At British Steel it is our view that the periodic review process should not create any more shocks on top of the challenges already present, such as uncertainties in the steel market causing closures of facilities within the UK, extreme product competition imported from both within and outside of the EU and finally the impact of Brexit.

As a customer of rail freight we are seeking an affordable, reliable and consistent product that is easy to use and supports our business success. In assessing the level of access charges the ORR should take into account of the affordability of customers, like British Steel, including the competitive position of UK industries with international competition. We urge the ORR to make an early decision not to increase the access charges for rail freight beyond the end of Control Period 5 level. For the success of British Steel (as a new business following recent purchase from Tata Steel), stable operational environments are essential to our operation and either cost reduction or at a minimum cost neutral situations must be in place to remain competitive in our sector.

We would like to see a greater focus by ORR on reducing the cost of the rail network in order to make using rail more competitive against alternative modes, rather than changing access charges.

Charges;

We need simple, stable and affordable access charges in order to invest for the future and support continued use of rail freight. In particular:

- * Keep the variable access charge and capacity charges at no higher than current control period levels.
- * Make access charges as simple as possible and no more complicated than today
- * Retain charges on a national basis for freight - geographic charges will be complicated and create uncertainties for customers such as ourselves.
- * Consider the abolition of the Freight Only Line Charges and Freight Avoidable Charges that apply to iron-ore in recognition of that such costs contribute to the competitiveness of the UK steel market in an international market.

Simplicity;

Using rail freight is already far more complicated than using the road network and the overall aim of the ORR in its decision making throughout the periodic review process should be to make the rail product as simple as possible to use - not ever more complicated.

Efficiencies;

- 1) Network Rail should be encouraged, through regulated outputs to work with freight operators to enable efficiencies to be delivered e.g. longer trains, faster train paths.
- 2) Network Rail should be encouraged to ensure that engineering work is planned so as to keep the rail network open and to keep freight trains running.
- 3) Network Rail through its System operator function should be encouraged to identify new efficient paths in the timetable to support the development of new business.

Investment;

We support the continued investment by government in the Strategic Freight Network programme, which is for example enabling longer trains on the rail network and enhancing the signalling on the line from Immingham.

As a significant freight mover within the UK but also in an attempt to improve communication and relationships, we have been working hard over the last few years to fully engage with Network Rail on rail use and development but also opportunities to move freight from the road and onto rail, we must do everything possible to continue with this work and continue to increase volume over the network.

I very much look forward to your thoughts and response and would welcome the opportunity to be involved and discuss further.

Regards

Stuart Smith
Head of Logistics, Transport & Shipping
British Steel

2018 Periodic Review of Network Rail ORR Consultation

Introduction

Campaign for Better Transport welcomes the opportunity to contribute to the development of the 2018 periodic review (PR18) of Network Rail's outputs and funding for control period 6 (2019-24).

With the caveats detailed in our response, we support the overall objective for PR18 as captured in the consultation document:

'A more efficient, safer and better used railway, delivering value for passengers, freight customers and taxpayers in CP6 and beyond'

Unavoidably, there remains much room for interpretation within such a definition. In tackling this, the PR18 process should give more priority to:

- User priorities: While recognising the review is a regulatory process rather than a policy setting function, it should be clearer how passengers' and other users' interests are to be interpreted and pursued.
- User representation: A key benefit of devolution within Network Rail and wider public sector decision making is for enhanced representation. We look for a clear sense of how the ORR will support this through the review.
- Connection to wider policy objectives: The scale and complexity of the rail industry can make the PR process overly inward looking. We wish to see evidence that rail's current and potential contribution to wider social, economic and environmental objectives will be clearly understood, progressed and reported on through the review process.

Means of furthering these objectives through the PR18 process set out in our response to sections 2-6 of the consultation document.

SECTION 2 – Context for the review

Campaign for Better Transport is concerned that ORR's regulatory role is hindered by the absence of a long term vision for rail. Reviews by both Dame Colette Bowe and Nicola Shaw identified the absence of such a vision for the railways as a hindrance to planning and oversight:

"The periodic review focus on infrastructure projects, in isolation from rolling stock, refranchising, or operational considerations may also hamper effective planning and

delivery. For large, lengthy, or complex enhancement programmes such as electrification, the Review found that the consideration of infrastructure upgrades took place in isolation from decisions about the wider system or due regard to interdependencies, meaning that the Department in practice carried greater risk across the whole railway system."

Bowe Review of the Planning of Network Rail's Enhancement Programme 4.41 (page 27)

"Part of the challenge of any infrastructure planning is being able to look far enough ahead and to use available forecasts to make sensible decisions to meet the expected increasing demand. However, at present, outside the five-yearly periodic review process (which is in any case focused primarily on infrastructure, rather than the whole system), there is no clear, public, long-term strategic vision for the railway from government."

Shaw review on the future shape and financing of Network Rail, R4.9 (page 74)

We continue to press the Government to develop a long term vision for rail. Such a plan needs to be objective led rather than process led, and to be overseen by central Government, with support from all stakeholders, including rail users. The ORR should make it explicitly clear that PR18 is not a proxy for strategic planning, and that PR18's effectiveness may indeed be hindered by the continued absence of such a vision.

SECTION 3 - Focusing the review where it can have most impact for passengers and freight customers

We agree that the measures outlined in Figure 3.1 could form a meaningful way of assessment high-level outputs for NR. We would, however, draw attention to particular aspects of NR's past performance which have fallen short of effective performance in previous control periods:

- More efficient - We are concerned assessments of what is 'cost efficient' are often drawn narrowly, reflecting not what is cost efficient to achieving public policy objectives as a whole, but what is cost efficient to NR managers over the short term. Such an approach has a tendency to lead to enhancement projects being considered separately from external economic, social and even transport decision making. Overcoming this bias is a major challenge for NR and ORR through the PR process and will require much closer engagement with stakeholders including new devolved decision making bodies, local authorities and passenger representatives.
- Better used - As discussed above, it is essential that 'better used' be interpreted in a way that brings in broader social, economic and environmental policy objectives into play, and not just internal railway economics. In the simplest terms, we would encourage an interpretation of 'better used' that maximises the number of journeys and freight movements that the rail network is able to perform rather than one focused more exclusively on revenue raised from rail operations

- Expanded effectively - This captures the need to deliver projects in a safe, timely and cost effective way. In practice, proponents of some enhancement schemes feel NR's interpretation of these factors combine to prevent proposed enhancement schemes even when they would bring significant benefits. For example, schemes such as the proposed Wisbech line reopening and Gilsland Station reopening are being held back by highly inflated impact and cost assessments produced by NR. With substantial interest in network enhancement and an increase third party funding both likely in the coming Control Period, it is essential ORR sets out how it expects NR to help enable clearly beneficial schemes more quickly in future. Third party involvement also extends to project delivery and there are already examples of enhancements such as reopened stations being delivered by external organisations. With NR's capacity and resources a serious impediment to delivering enhancements, the organisation needs clear and well-publicised processes that allow others to access asset knowledge, and being supportive in accepting infrastructure built by others into their network.
- Safer - The UK rail network is a very safe way to travel, comparing favourably with nearly every other European railway. It also compares very strongly with road transport. From 64 billion passenger kilometres travelled, 2014/15 was the eighth year in succession with no passenger fatalities in train accidents (there were 43 non-suicide fatalities on the network). This compares with 1,775 deaths and 22,807 serious injuries on the road network in 2014 from 500 billion vehicle kilometres travelled by all motor vehicles. While NR should be charged with maintaining the strong safety record of the railways, it is important to note that an objective of increasing the number of communities served by comprehensive rail services would mean more journeys transferring from road to rail and thus make a bigger contribution transport safety than focusing on rail safety in isolation. Enhancement schemes should in part be judged against this objective.
- Available - We strongly support the development of thinking in this area. Planning of engineering works should be carried out in close cooperation with system operation functions to ensure impact on rail users is minimised.
- Reliable - We would wish to see definitions of 'reliable' broadened to encompass overcrowding on services and at stations. While train operators bare the majority of the responsibility in this area, Network Rail has an important part to play in ensuring works are planned and undertaken to ensure all who wish to use the network are able to do so

In addition to these six outcomes, an objective relating to accountability and wider public policy objectives should be included. This would capture NR's contribution to environmental, social and economic objectives which are being delivered through devolved structures and local partnerships, and should be progressed with the active involvement of the railways.

SECTION 4 - Our proposed approach to the review

Regulating at the route-level

Devolution must enhance the influence passengers' have on the management of the railways during PR18. This should be through two main processes:

- Internal: Changes to route management within Network Rail
- External: Devolved transport decision making and investment by local authorities, Local Economic Partnerships and sub-national transport bodies.

For internal NR processes, we look to the ORR to take a lead in ensuring rail users voices are much more clearly heard within NR's new devolved structures. As part of the PR18 planning, the ORR must make it clear how it will perform this function. Groups presenting passengers interests should be formally involved in this process including signing it off.

The ORR also needs to make clear how it expects NR to work with new external structures such as SNTBs and Combined Authorities. We wish the ORR undertake specific work setting out how PR18 will engage and support this. For example,

- What guidance and oversight will ORR offer NR on how to work with new structures such as Sub-National Transport Bodies in setting route level priorities?
- How will network access charges be structured to support the objectives of new external structures?
- How will the Virtual Route for Freight and cross country passenger services be accommodated within route devolution?

Improving system operation

We support the inclusion of a 'better used railway' as part of the guiding statement for PR18. It is, however, vitally important that further context and interpretation of how 'better used' is to be interpreted.

Previous Periodic Reviews have rightly been criticised for lacking a wider assessment of rail's role. For example, Dame Colette Bowe's Review of Network Rail's enhancement planning concluded:

"In my view, the interpretation by all parties of the periodic review framework has led to an unnecessarily narrow approach to the process, with a lack of whole-system and long term thinking."

2.16 (page 11)

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/479560/bowe-review.pdf

This criticism needs to be addressed in PR18. Campaign for Better Transport is,

however, particularly concerned that PR18 appears inwardly focused, missing important factors relating to the operation of the railway including social, economic and environment outcomes which should be a core part of a 'better used railway'.

We look for concrete evidence that rail's wider role is being reflected in the PR's assessment of NR's system operation role. This should include:

- Encouraging new development (commercial and residential) supported by rail. In pursuit of this, there are said to be internal NR targets for housebuilding. These should be made more transparent.
- Contributing to reduced environmental impacts from the transport sector, including lower overall carbon emissions from transport, which can be achieved via a shift from road to rail by both passenger and freight transport
- Setting network access charges at levels designed to maximise the overall percentage of journeys (passenger and freight) undertaken by rail
- Consideration of public health benefits of increased journeys by rail, reflected in both increased active travel lower
- Economic regeneration where it is supported where access to jobs and services is provided via improved or new rail services

Refining the framework for outputs and how these are monitored

The emerging PR18 process must give appropriate representation, influence and amplification to passengers' interests in its monitoring.

The past 20 years has seen a dramatic increase in the number of passenger journeys taken on the railways. In 2015-16, passenger journeys totalled 1.69 billion, up from 735.1 million in 1994-95

[http://orr.gov.uk/__data/assets/pdf_file/0015/22056/passenger-rail-usage-2015-16-q4.pdf].

From 1995 to 2016, ticket prices increased by an average of 23.5 per cent in real terms [<http://dataportal.orr.gov.uk/displayreport/html/html/920430f4-6a8d-4bb8-9762-2bf89259e346>].

These twin effects have increased the strategic significance of the railways to communities and the economy, and raised the percentage cost of running the railways indirectly borne directly by passengers. Research carried out for Campaign for Better Transport at the end of 2013 found that revenue from ticket sales is likely to exceed railway operating expenditure, and account for 75 per cent of total rail expenditure, by around 2018/19 [http://www.bettertransport.org.uk/sites/default/files/research-files/Fares_and_rail_financing.pdf].

In a real sense, passengers are paying for the railways as never before. Yet there remains a sense their interests are peripheral to the PR process. It is essential that

PR18 changes this with passenger interests forming a clear thread through the review.

We look for this to include:

- Establishment of a working group specifically tasked with understanding and promoting passenger engagement in the PR18 process
- Reporting on PR18 to include measures of particular importance to passengers including journey reliability and tackling overcrowding, where this connects directly with work being undertaken by NR
- ORR research programme undertaken alongside PR18 to consider how effectively NR responds to the interests of passengers and to make recommendations to Government as to how this can be improved

Transparency around costs and improving incentives

The ORR must oversee a significant improvement in NR's assessment both of costs and benefits from project delivery. As discussed elsewhere, benefits should be considered more widely than is currently the case, drawing in social, economic and environment objectives from partner organisations and public policy. Better assessment and understanding of costs and benefits both must be achieved if the railways are to improve the value for money they offer to passengers and to taxpayers.

On costs, we are concerned that the consultation gives little attention to improving efficiency within NR, instead focusing on how the organisation can change the way it transfers costs to rail users. To combat this, we call on the ORR, NR and the DfT to develop a network access charging structure that seeks to maximise public utility derived from the rail network

A chief failure with incentives has come about because of NR's lack of direct interest in passengers. We support the move toward devolution and passenger involvement undertaken to address this.

New ways to treat enhancements

The section on 'Supporting new ways to treat enhancements' raises important questions about whether enhancements should be moved outside of the Control Period process. While understanding the attraction of moving to a more flexible rolling programme, the consultation provides little detail on how such an approach would work in practice and we see few benefits from moving to such an approach.

Rail is already hindered by the absence of a long term Government-led vision for the sector. Moving to a rolling programme of investment would risk short-term political priorities taking precedence over a more strategic approach.

It is also notable that investment in the Strategic Road Network has recently adopted five-year Road Investment Strategies (RIS) process in part to mirror what is considered

overall to be an effective process on rail.

SECTION 5 - Developing the high level framework for the review

As discussed elsewhere, more efficient use of resources by NR is very important for PR18. There is a need for further detail on how ORR intends to provide oversight of this function.

Benchmarking of route level expenditure should take in the factors discussed in Section 3, including the need to recognise accountability and contribution to wider public policy objectives as a key part of NR's work.

SECTION 6 – Process and engagement

As present, we are concerned the PR18 process is a stage removed from those who use the railways. As discussed elsewhere, we call on the ORR to undertake specific work in the development of PR18 to support greatly enhanced involvement from passengers, and understanding of their interests. This should address route devolution, incentives, enhancements and system operation.

Campaign for Better Transport
August 2016

Response to ORR’s initial consultation on the 2018 periodic review of Network Rail (PR18)

This pro-forma is available to those that wish to use it to respond to our consultation. Other forms of response (e.g. letter format) are equally welcome.

Please send your response to pr18@orr.gsi.gov.uk by **10 August 2016**.

Full name	Ralph Smyth
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*This information will not be published on our website.

Chapter 2: Context for the review

We invite stakeholders to comment on whether they agree with our view of the context for PR18 or whether they consider there are additional significant points. (If the latter, please explain how these might affect the review).

We welcome this opportunity to comment on the review.

Sustainability

We are concerned that the context fails to consider wider sustainability challenges, particularly reducing carbon emissions from transport, which in 2015 became the biggest single source in the UK. There is a fundamental conflict between rail simply meeting forecast demand (as in Network Rail’s licence) and the National Planning Policy Framework that calls for the fullest possible use of public transport. The latter implies a pro-active approach to maximise the use of rail.

The [Committee on Climate Change \(CCC\) has recommended](#) ‘National and local policies to reduce demand for car travel, sufficient to deliver car-km reductions of around 5%’. By contrast the [Department for Transport \(DfT\) forecasts a 10 to 55% growth between 2010 and 2040](#). The CCC is concerned that even if currently announced policies deliver, these will deliver 40% less of the required abatement by 2027.

Although there will be a role for electric vehicles and demand management, much more modal shift to rail is needed. By contrast, Network Rail is only planning for half the rate of rail growth in many route strategies that we have seen in the last twenty years. It is important that rail growth is focused on modal shift, such as for areas and routes not well served at present. The CCC highlights the need for Urban Consolidation Centres for freight: helping unlock rail connected sites would be of great help.

We also flag up the need for better design processes: with the enhancements often meaning new structures rather than just maintenance, Network Rail needs its own design panel. Although it has a good record for major stations, as the Great Western Electrification through

the Chilterns shows, this does not extend to the places in between.

Devolution beyond Network Rail

While we support wider devolution within Network Rail, it is clear that the scale of the enhancements needed for the railways is too much for one company to deliver. At the same time, the emergence of Sub-national Transport Bodies offers new opportunities for local prioritisation and control.

Regulation should support devolved bodies having greater control or even ownership of Network Rail assets, where this does not conflict with the needs of the national network. By giving branch lines that are not used for freight over to local control where desired, Network Rail could focus and specialise on routes with heavier and or mixed traffic. This could also help foster innovation and cost-effective operation on local lines.

The successful Metrolink model involved transfer of Network Rail assets, such as the Oldham Loop, to the Greater Manchester PTE. By contrast, leasing the Abbey Line to Hertfordshire County Council has not been possible, due to challenges regarding the allocation of ticket revenues and structure maintenance. Ways to resolve this in future should be examined. All regulation in CP6 should be devolution proofed, in terms of facilitating greater control by democratically accountable local bodies.

Chapter 3: Focusing the review where it can have most impact for passengers and freight customers

We welcome views on the proposed relative priorities for the review, as well as any other areas that should be prioritised (in which case, we would particularly value views on what should not be prioritised as a consequence).

The 'Better used' priority should be nuanced: rather than simply emphasising more use it should prioritise use that would secure wider environmental, social and economic benefits. Addressing new markets, such as areas with poor or no rail passenger services, rail linked urban consolidation hubs, rather than simply providing for more commuting, would help reduce carbon emissions through modal shift and could help spread economic growth beyond overheated areas in the south east.

Chapter 4: Our proposed approach to the review

We would like to know if you agree with the overall approach that we have set out for the review.

We would also welcome additional suggestions and proposals for how we might adapt our regulation to the current context. It would be helpful if you could arrange your comments around the headings in the chapter (set out below) where these are relevant to your response.

Route-level regulation

We support greater route-level regulation. Greater geographical alignment of the way national transport infrastructure is divided up – whether Network Rail routes or Highways England route strategies – with emerging Sub-national Transport Bodies would assist cross-modal planning.

System operation

We support proposals for a more focused approach to system operations. This is closer to the Swiss system, which has led development of clockface timetabling and better interchange between local and long-distance services.

We support the principle of timetable recasting, so as to meet future requirements rather than be tied to historical demand. There must however be recognition of the needs of smaller settlements and rural areas, such as by setting thresholds, so that services to smaller stations are not disadvantaged compared to inter-urban travel.

Outputs & monitoring

Although only a year older, the Network Rail licence feels as if it comes from a different era to that for Highways England, particularly in relation to environmental issues.

As part of the 'Network Theme' there should be a requirement for a Design Panel for Network Rail to be established, in line with those that already exist for Highways England and High Speed 2. Note that DfT has recently recognised the importance of 'built environment' through its explicit inclusion in the list of new ministerial responsibilities.

Noise is also an important issue, which is prioritised for Highways England through its Performance Specification. Reduction in impacts on Noise Important Areas should be explicitly mentioned for rail in relation to the environment.

The outputs should facilitate a move towards more or even full local control (as per Manchester Metrolink) where there is local demand for this and the national system would not be adversely affected (so excluding lines with long distance or freight). It will be important that the regulatory framework does not create hidden incentives for Network Rail to oppose such devolution.

Network capacity measures should not simply consider passenger throughput but the range of destinations served. Otherwise smaller rural towns could see their services cut for the sake of a few more services between cities.

In terms of network outcomes, there should be a metric as to the proportion of population in urban and rural areas that are within a fifteen minute walk to a station with a frequent service (at least hourly in one direction). DfT already collects similar data in relation to bus services, see [Table NTS0801](#) and are developing [statistics for rail connectivity](#). This would align with [Government proposals to encourage housing development around 'commuter hubs'](#). This metric would incentivise Network Rail, whether in terms of releasing land for housing development, facilitating the opening of new stations where there is demand and or ensuring capacity constraints on the rail network do not squeeze out a minimum level of service from smaller stations.

Charges & incentives

No comment

Approaches for enhancements

All schemes over £100m and sensitive schemes under that threshold should be subject to design review, from as early on in scheme development as possible.

ERTMS and related technology

We welcome having a more efficient railway but there should be consideration given to preservation of heritage aspects of old signalling infrastructure

Chapter 5: Developing the high-level framework for the review

We welcome views on how our high-level approach could be implemented and on the potential framework set out in chapter 5. As part of this, we invite thoughts on what it is practicable to achieve in PR18 and in CP6, and what might be more realistic to achieve in the subsequent periodic review.¹

We would also welcome any further suggestions and ideas on how we might improve how we regulate Network Rail.

We would welcome a requirement for Network Rail to publish more open data, such as for Network Capability of its routes and management of the green corridor along them.

Chapter 6: Process and engagement

We would be grateful for comments on the proposed phases of the review, including any views on the [draft timetable](#) and our proposed approach to engagement.

We also invite high-level views on the process for customer engagement by Network Rail's routes and the system operator to inform their business plans, in terms of what is achievable for this review.

We would also welcome any views on how Network Rail and train operators would like to engage and be involved in the implementation process for PR18 and any thoughts on the process relating to Network Rail's right to object to our determination.

There should be greater engagement of rural areas, including those not currently well served by the rail network

Any other points that you would like to make

¹ You may also wish to read and comment separately on the working papers that we will publish following this consultation document.

While we support a five year based approach, we would prefer greater opportunities for alignment with the Road Investment Strategy, so that a cross-modal view can be taken for corridors.

Thank you for taking the time to respond.

Response to ORR’s initial consultation on the 2018 periodic review of Network Rail (PR18)

This pro-forma is available to those that wish to use it to respond to our consultation. Other forms of response (e.g. letter format) are equally welcome.

Please send your response to pr18@orr.gsi.gov.uk by **10 August 2016**.

Full name	Bill Free
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*This information will not be published on our website.

Chapter 2: Context for the review

We invite stakeholders to comment on whether they agree with our view of the context for PR18 or whether they consider there are additional significant points. (If the latter, please explain how these might affect the review).

Carillion Rail, part of Carillion PLC, is a contractor carrying out Enhancement and Renewal work for Network Rail throughout Great Britain. We are Network Rail’s largest supplier of this type of work.

We are members of the Civil Engineering Contractors Association and the Rail Industry Association and support their responses to this consultation. Our input is aimed to complement the two trade bodies’ responses with, maybe, different emphasis on some areas.

We are broadly in agreement with the ORR’s comments; although, in the context of the Shaw Review and recent announcements by NR on the need for external funding, we would have expected to see more emphasis on ORR providing comfort on Value for Money for those planning to invest in Rail Infrastructure.

Chapter 3: Focusing the review where it can have most impact for passengers and freight customers

We welcome views on the proposed relative priorities for the review, as well as any other areas that should be prioritised (in which case, we would particularly value views on what should not be prioritised as a consequence).

3.10 – We agree that major enhancements may be better considered as part of a franchise award or fleet change. As an example of this, the current Control Period has suffered from proposed electrification work not being matched by Rolling Stock changes to take advantage of the new power source.

3.24 – We are in favour of there being a greater role for train operators and local stakeholders in planning the future of the railway. This process would be assisted by the ORR being able to provide / ensure a level playing field for these discussions. It would also be helpful if ORR was able to provide arbitration over the scope, standards and value for money involved in any such enhancement.

Chapter 4: Our proposed approach to the review

We would like to know if you agree with the overall approach that we have set out for the review.

We would also welcome additional suggestions and proposals for how we might adapt our regulation to the current context. It would be helpful if you could arrange your comments around the headings in the chapter (set out below) where these are relevant to your response.

Route-level regulation

As covered in the CECA response; we would welcome a standardised high level approach to contracting across the devolved Routes

System operation

No comment

Outputs & monitoring

No comment

Charges & incentives

4.32 – notwithstanding your earlier consultation, we question the use of Schedule 4 charges for major enhancements – especially for those TOCs that will benefit from the work.

We believe that early engagement of contractors will help obtain more accurate estimates of contract costs

Approaches for enhancements

We are responding without visibility of the promised Enhancements document

4.33 – We believe that certain major enhancements should be more closely linked to franchise commitments (and therefore award). This would give a “Customer” to help focus the work and a clear view of the use that the improvements will be put to.

We have carried out a number of enhancements funded by ring fenced funds, under previous Control Periods, and believe that these are a very productive way to deliver improvements. There is a strong incentive, on the client, side to save money – because this facilitates further enhancement, funded by the savings.

ERTMS and related technology

Given the need for fitment of rolling stock to match the infrastructure changes and the desire to maximise the operational benefits – it would appear to be a good idea to link ETCS roll out to Franchise award.

Chapter 5: Developing the high-level framework for the review

We welcome views on how our high-level approach could be implemented and on the potential framework set out in chapter 5. As part of this, we invite thoughts on what it is practicable to achieve in PR18 and in CP6, and what might be more realistic to achieve in the subsequent periodic review.¹

We would also welcome any further suggestions and ideas on how we might improve how we regulate Network Rail.

We agree with your proposals to regulate at both Route & National level

We are not sure how this regulation will apply to the Freight Route?

Chapter 6: Process and engagement

We would be grateful for comments on the proposed phases of the review, including any views on the [draft timetable](#) and our proposed approach to engagement.

We also invite high-level views on the process for customer engagement by Network Rail's routes and the system operator to inform their business plans, in terms of what is achievable for this review.

We would also welcome any views on how Network Rail and train operators would like to engage and be involved in the implementation process for PR18 and any thoughts on the process relating to Network Rail's right to object to our determination.

6.24 – We are unclear as to how Regional Bodies will contribute to the establishment of the HLOS & SOFA? Presumably they will liaise with the appropriate Route & other Stakeholders to set up the Industry Plans, but after this?

Any other points that you would like to make

¹ You may also wish to read and comment separately on the working papers that we will publish following this consultation document.

We are looking forward to seeing the proposed working paper on enhancements. At the time of writing this response, 1 August, the paper was not available

Thank you for taking the time to respond.

Response to ORR’s initial consultation on the 2018 periodic review of Network Rail (PR18)

This pro-forma is available to those that wish to use it to respond to our consultation. Other forms of response (e.g. letter format) are equally welcome.

Please send your response to pr18@orr.gsi.gov.uk by **10 August 2016**.

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Chapter 2: Context for the review

We invite stakeholders to comment on whether they agree with our view of the context for PR18 or whether they consider there are additional significant points. (If the latter, please explain how these might affect the review).

We would observe that as well as overall volume growth, the nature and geographical distribution of freight in particular is changing. Coal and steel were dominant in areas, such as Yorkshire, Humberside and South Wales, that are generally discrete from the main high volume passenger routes. In contrast, the growth sectors - intermodal and construction - are very much aligned with these main routes and also with London and the South East, thereby increasing the pressure on the busiest parts of the network. It follows that Network Rail need to respond efficiently to increased demand in these areas for both passenger and freight.

We would also note that, in spite of this increased use of the busiest parts of the network, freight performance has continued to improve and has not dropped off as has been the case with passenger TOCs.

Chapter 3: Focusing the review where it can have most impact for passengers and freight customers

We welcome views on the proposed relative priorities for the review, as well as any other areas that should be prioritised (in which case, we would particularly value views on what should not be prioritised as a consequence).

We agree, in general, with the proposed areas for review and the categorisation into the High Priority, Continued Focus and Incremental Improvement, although we consider that network reliability should be High Priority, given the considerable disruption caused on a frequent basis by infrastructure failure, notably track circuit failures, points & signal failures and overhead line problems.

We welcome the intention to deliver improved outcomes in providing additional and more reliable passenger services, safeguarding network-wide coherence for freight and to a railway that supports economic growth and delivers environmental benefits through reduced road congestion. We would suggest that the provision of additional capacity for freight should also be a key outcome, since the environmental (and often economic) benefits of modal transfer are considerable and far greater than measures to improve environmental performance within the road mode.

Chapter 4: Our proposed approach to the review

We would like to know if you agree with the overall approach that we have set out for the review.

We would also welcome additional suggestions and proposals for how we might adapt our regulation to the current context. It would be helpful if you could arrange your comments around the headings in the chapter (set out below) where these are relevant to your response.

Route-level regulation

The Institute supports the general thrust of the Shaw report and welcomes greater devolution of accountability for efficient delivery to Routes. In our response to Shaw we did, however, express considerable reservations that cross-border flows, especially freight, could be seriously disadvantaged by a greater - and potentially incentivised - focus on TOC's and customers enjoying close relationships with a geographical Route.

We welcome the creation of a virtual Freight Route, and its expansion to include national passenger operators, but remain concerned that the ability of the virtual Route to exert direction and influence over geographical Routes will be limited. We believe that the geographical Routes should have an regulatory obligation to cater efficiently and fairly for cross-border flows to ensure that 'home' customers are not unduly favoured.

We support the proposed measures for regulating geographical Route performance and the way in which this could be used.

System operation

The virtual Freight route and the System Operation function should, similarly, have obligations to ensure that long term capacity, plus effective long term and short term paths are produced, and that overall performance meets agreed FOC/freight customer/national TOC specifications.

We do not believe that the costs of the Freight Route and the System Operator should be heavily regulated - they do not account for a significant proportion of NR costs and it is the output of these organisations that is of critical importance, especially in regard to cross-border

flows, and it is here that regulatory scrutiny should be focussed.

Outputs & monitoring

We welcome the proposal to improve how the passenger experience is reflected in output measures and monitoring, but consider that a similar measure should also apply for freight customers - the FDM is a good measure of overall performance but does not capture the individual experiences of customers.

We also welcome the suggestion for increased transparency in monitoring.

Charges & incentives

We welcome increased understanding and transparency in costs and charges, but would note that for non-franchised operations, i.e. freight and open access where operators are not held harmless to changes in access charges and real money is involved, it is critically important that charges are predictable and stable.

Furthermore, access charges are an important component in overall costs and thus competitiveness of the rail mode - with Government objectives for modal shift and ORR's duty to increase the use of rail for freight as well as passenger, it is crucial that access charges should not drive freight off the railway and/or discourage the transfer of new flows from road.

Approaches for enhancements

We believe that NR do not have an effective process for planning and managing enhancements. Quite apart from high-profile failings with GW Electrification, we are deeply concerned that it has taken years to analyse and develop a capacity enhancement scheme for the Felixstowe branch, where a shortage of paths is constraining growth at the UK's biggest freight location. Similar comments apply to a number of private party schemes (e.g. new freight facilities) where NR has not had, and has failed to establish, a clear understanding of its infrastructure and how it can be developed.

There have been serious failings in engineering analysis and more attention paid to internal process than the desired outcome. Clear strategic planning and project direction is required to ensure that departmental requirements and shortcomings do not stand in the way of project delivery.

ERTMS and related technology

We believe that ERTMS and wider digital solutions have a key part to play in improving the capacity and efficiency of the railway. It is, however, clear that robust technical solutions are proving elusive and that ERTMS alone does not, on its own, deliver increased capacity - a range of other measures, such as grade separation at junctions and remodelling of station approaches is needed to fully exploit the benefits of ERTMS, which are largely closer spacing of trains on plain line between junctions and nodes.

It follows that work on, and investment in, traditional tangible engineering solutions must continue alongside the development of ERTMS - this will also mean that some additional capacity will be delivered in the event of the Digital Railway running late.

Chapter 5: Developing the high-level framework for the review

We welcome views on how our high-level approach could be implemented and on the potential framework set out in chapter 5. As part of this, we invite thoughts on what it is practicable to achieve in PR18 and in CP6, and what might be more realistic to achieve in the subsequent periodic review.¹

We would also welcome any further suggestions and ideas on how we might improve how we regulate Network Rail.

We support the proposed approach, but believe the main focus should be on the devolved geographical Routes, the virtual Freight Route and the System Operator. The central support and technical functions should not be ignored but should be studied to the extent that they affect the key functions. The central functions that have the greatest impact are likely to be the Route Services Directorate (notably the National Supply Chain) and to Infrastructure Projects, which also has a major impact on the delivery of enhancement schemes.

Re para 5.6, would reiterate that measuring the impact of NR's delivery on outcomes for passengers should apply equally to freight customers.

We support the continued 'single till' approach for NR revenue and would not wish to see, for example, separate costs and charges raised for the services of the System Operator.

We believe that incentives need to be considered very carefully to avoid unintended consequences. It would be all too easy to incentivise a Route Director to deliver for his prime customers but, in the process, lead him to ignore the needs of - or even consciously disadvantage - transit traffic in which he has no natural or financial interest. Route incentivisation is probably best focussed on the production side - the availability and performance of infrastructure assets and operational efficiency of the Route for *all* customers and users.

Chapter 6: Process and engagement

We would be grateful for comments on the proposed phases of the review, including any views on the [draft timetable](#) and our proposed approach to engagement.

We also invite high-level views on the process for customer engagement by Network Rail's routes and the system operator to inform their business plans, in terms of what is achievable for this review.

We would also welcome any views on how Network Rail and train operators would like to engage and be involved in the implementation process for PR18 and any thoughts on the process relating to Network Rail's right to object to our determination.

¹ You may also wish to read and comment separately on the working papers that we will publish following this consultation document.

We appreciate the need for thorough and comprehensive development of proposals for PR18, but the process inevitably causes uncertainty and worry on the part of those whose businesses stand to be directly affected by any changes, notably FOC's and freight customers. Measures to reduce the length and degree of uncertainty would be welcome.

Whilst stakeholder involvement with Routes is clearly desirable, we have concerns about how this can be achieved by operators and customers who use and traverse a number of Routes. In a highly competitive and low margin business such as freight, even large FOC's do not have the resources to attend numerous Route Stakeholder Groups and small FOC's and customers are unlikely to be able to be represented on more than an occasional basis. This is a serious concern since it could lead to such Groups and Routes developing a skewed and inaccurate perception of what 'the customer' requires. We believe the virtual Freight Route will need to represent all freight customers and FOC's at Route Stakeholder Groups, with customers and FOC's attending personally when they wished to raise a matter of importance.

Any other points that you would like to make

The Institute, as an organisation independent from industry profit and loss considerations - and with a considerable body of experience and expertise - is happy to be involved further in the PR18 process and provide neutral objective input and assistance as required.

Thank you for taking the time to respond.

The following comments are aimed at addressing the general requirements for PR18(CP6). With the exception of certain long term strategic issues, no attempt has been made to address the merits of specific renewal and enhancement projects.

1. The key challenges for Network Rail in CP6 are the following –
 - To avoid any repeat of the problems in CP5 related to NR and its contractors having insufficient resources to fulfil the agreed programme of works.
 - To avoid the problems in CP5 relating to the significant escalation of costs of certain projects, primarily as a result of these projects proceeding prior to completion of development work and associated lack of high quality cost estimates.
 - To continue to address widespread capacity issues on the network. (This is an issue arising from the success of the industry)
 - To ensure that long term strategic projects are not compromised in an environment of limited available finance.
 - To ensure the continuation of the excellent safety performance in respect of operation of the network and the implementation of renewal and enhancement works.
 - To clearly articulate (jointly with ORR and DfT) the reasoning for the choices made for inclusion in (and exclusion from) the scope of CP6 works. It is almost inevitable that the volume of works which can be undertaken in CP6 will be constrained by both available funding and availability of resources. It is probable that the gap between the list of desirable renewals and enhancements and the final agreed scope for CP6 will be significant.
2. The concept of developing the programme based on devolved routes is sound, and should assist in better interfacing with franchise holders and local government. It must however be recognised that some maintenance and enhancement projects will cross the devolved route boundaries. It will be important to identify these and explain how they will be managed. It is essential that such works are implemented compatibly across the route boundaries.
3. Demand for passenger rail travel continues to grow robustly and hence it is essential that capacity enhancement projects continue where practicable. In many cases gains can be achieved by relatively minor enhancements such as passing loops, crossovers to allow access to alternative routes, grade separated junctions etc. In some cases these enhancements could well be a first phase of larger scale enhancements planned for later implementation. E.g. longer lengths of additional tracks (see also comment 7 below)
4. Demand for rail freight has been forecast to grow substantially; however there must be considerable uncertainty as to the scale and detail of this. Any projects based primarily upon growth in rail freight must be considered with care to ensure that it is robust even in low growth scenarios. Reasons for caution include –
 - Ports Intermodal traffic has grown consistently for a number of years and it is reasonable to expect continued growth provided there is general economic growth.
 - The indicated main driver for future rail freight growth is Domestic Intermodal. At present this represents a very small portion of rail freight and it is questionable as to why this should, in the near future suddenly increase rapidly. Domestic intermodal is subject to intense competition from road transport which is capable of covering the total journey and therefore it would need a significant increase in the number and location of freight terminals to avoid significant road transport at either end which is a limiting factor for Domestic intermodal. There is presently little evidence of this significant change of mode occurring in the near future.

- Whilst there is great potential, the rate of growth of freight through the Channel Tunnel remains difficult to forecast. It is dependent upon the ability to efficiently operate freight trains across multiple national boundaries.
 - The volume of coal traffic will inevitably continue to decline.
5. Electrification projects have been the major source of delays to the CP5 enhancements programme. This has been due to a number of causes including the lack of any significant “OLE” electrification works prior to CP5 resulting in a lack of relevant skills, resources and experience. Evidence suggests that difficulties are progressively being overcome and it will be important to retain capabilities. Presently ongoing electrification projects should all be completed by 2019; it will therefore be important that CP6 includes sufficient additional electrification works to retain capability in the period up to 2022 when electrification of HS2 route should commence.
 6. Digital Railway projects are a key to the long term safety, efficiency and capacity enhancement of the railway. It is vital that an overall programme for implementation of Digital Railway across the whole network is developed. It is likely that completion of this programme will stretch to the mid 2030s, but it will be important that a significant progress will be made during CP6. As for electrification, continuity of work on this enhancement of the whole network will greatly assist in its efficient execution.
 7. CP6 needs to progress enhancements needed to maximise the opportunities presented by the commencement of services on HS2 Phases 1 & 2A. An example of this is the West Coast Main Line north of Preston, which is already capacity constrained due to the mix of Inter-city, Inter-regional and freight services on a route with several steep inclines. The various passenger services have range of different stopping patterns and differing speed capabilities. Most of the freight services are travelling the whole length of the route with a much lower speed capability than the passenger trains. This situation, if not addressed will almost certainly preclude HS2 trains achieving their projected journey times unless severe restrictions are imposed on the other services on this route.
 8. The scope of CP6 must include provision for sufficient resource to carry out development of longer term works for implementation in CP7 and beyond.
 9. In respect of all of the above it will be important that Network Rail is able to demonstrate that it has all the needed resources required in order to implement the agreed CP6 programme of works. This includes (but is not limited to) managerial and supervisory skills and experience, capabilities of contractors, capacity of the supply chain and the ability to respond to emergency works. Within this it has to be recognised that the skill requirements are dependent on the types of work to be undertaken. For example Digital Railway projects are significantly different from track replacement works. Project development work is significantly different from supervising erection of overhead line electrification.

10. The charges that Network Rail's passenger (franchise and open access), freight and charter train operator customers will pay for access to its track and stations in CP6 is predominantly a political decision. How much each user is charged is purely a matter of judgement taking into account many factors. These will certainly include
- Whether or not certain types of services should be helped with "reduced" charge rates. Examples would be rural passenger services, freight services, non revenue earning train movements etc.
 - How much devolved transport authorities are willing to contribute to both service operational costs and to local enhancement projects.
 - How much Network Rail wishes to raise from franchise holders in order to contribute to the overall renewals and enhancements budget.

Chris Fox

June 2016

PR18 consultation responses

Name: Alasdair Reisner

Are you responding as an individual or representing the

views of an organisation?: Organisation

Name of organisation: Civil Engineering Contractors Association

Job Title: Chief Executive

Comments on chapter 2

As the body representing companies who together deliver around 80 per cent of all infrastructure construction activities on the national rail network, the Civil Engineering Contractors Association welcomes the opportunity to respond to this initial consultation.

We agree with the context of the review as set out in Chapter 2 of the consultation document. The recent re-classification of Network Rail, alongside the challenges that have been seen in the delivery of the CP5 programme have created an environment where the regulatory framework will need to change to respond to these challenges. They also create an opportunity for industry to work with Network Rail, the Office of Rail & Road, and other stakeholders to consider how to maximise the beneficial outcomes for passengers and other rail users in this new environment.

Comments on chapter 3

The six priorities for the rail network identified in the consultation document – more efficient, better used, expanded effectively, safer, available; and reliable, seem appropriate high-level outcomes that should be targeted by Network Rail. As suppliers to Network Rail, CECA members will work with Network Rail and other stakeholders to respond to these outcomes. As such, it is welcome to have such early visibility from the Office of Rail & Road in what the priorities for CP6 are going to be, allowing industry to respond and propose ways in which these objectives can be achieved.

Comments on chapter 4

Route level regulation

Contractors broadly welcome the proposals in the consultation document for route-level regulation. By taking the approach, decisions will be taken by those closest to the network and its users in a given route, with route- level leaders taking responsibility for delivery.

The proposed model may create a challenge for industry if the decision to devolve more control to routes leads to a fragmentation of the customer base, with each route developing a different approach to engagement with industry. Under these circumstances, there is a risk that contractors will be required to work under eight separate commercial models, with an impact on the efficiency that they are able to deliver as a result.

However the proposal to publish scorecards for each route may mitigate against these concerns, as those routes that operate under models that do not achieve efficiencies will be easily identifiable, and will be under pressure to harmonise with the models used by more effective routes.

However in doing this, it is essential that the scorecards focus on long-term outcomes, rather than targeting short-term fixes. The same should also be true of any incentive structure for routes.

As part of this process, it may be sensible to include a supplier feedback metric as part of the scorecard, to highlight which routes are getting best results in the view of the suppliers that work for them. Our members (along with other rail suppliers) will have good visibility of the activities of each route, and will therefore be able to provide regular feedback on how well delivery is going from a supply chain perspective.

System operation

We have no comments to add on the potential regulation of Network Rail's systems operator function.

Outputs & monitoring

We have no comments to add on outputs and monitoring.

Charges & incentives

The consultation document highlights the importance of developing a better understanding of the drivers of cost, and how they vary by time and location. We have seen Network Rail carry out significant work in recent years to improve its understanding of cost, and we are keen to continue to support this work.

We see a role for suppliers in supporting better transparency of costs, through earlier engagement in the development of projects. Through this approach, the development of costs will be directly informed by those that will be involved in delivery. We also collect data from members on a quarterly basis through our Workload Trends Survey, which we would be happy to share with the ORR to show how members experience of costs is changing over time and across the country.

Approaches for enhancements

We recognise the challenges that have arisen with the delivery of enhancements in CP5. The Office of Rail & Road consultation document notes the Department for Transport proposal to take funding for enhancements out of the periodic review process, to help with the planning of enhancements in the future.

Our members support efforts to improve the planning and delivery of enhancements. The experience of contractors during CP5 of uncertainty around whether enhancements would go ahead or not has presented difficulties for members in terms of planning their workload.

As such, we would welcome any future model that provided greater long-term certainty around the programme of investment.

However we do see a potential risk that this may move the rail sector away from the current model where industry has an element of certainty about the size of the programme for a five year period. If this certainty was lost, with schemes being assessed and approved on a case-by-case basis, this may reduce the visibility of future pipelines, thus reducing the opportunities to drive efficiency as part of a programme of investment.

ERTMS and related technology

We have no comments to add on ERTMS and related technology.

Comments on chapter 5

We support proposals to maintain a five year control period. This allows sufficient visibility of future investment to industry to allow it to manage its resources effectively, while not constraining passengers or the tax-payer into a settlement that might become outdated under a longer agreement.

At this stage we are not able to comment on what an appropriate level of efficiency will be possible to achieve on the period covered by this review. Industry has responded to previous challenges from ORR in other control periods. We look forward to engaging further on this point, and providing guidance on what is viable in terms of efficiency savings as the review develops.

Comments on chapter 6

We welcome the Office of Rail & Road's commitment to engagement as it develops PR18. As representatives from the supply chain, the early visibility that is provided by this consultation assists in the planning that members have to make for the future investment in the national rail network.

In particular, we hope that the timetable for implementation is maintained when it comes to publication of the draft determination in June 2018, as a key document that will help industry to prepare for the start of CP6 in April 2019.

We hope that the ORR will continue to engage fully with industry, and we are happy to offer our support to any further consultation and/or working groups that may be required to engage with the companies that will deliver the works covered by PR18.



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

9th August 2016

Dear Sirs,

Response to ORR's initial consultation on the 2018 periodic review of Network Rail (PR18)

I am pleased to respond to the initial consultation on the 2018 periodic review of Network Rail (PR18), on behalf of CoalImp – the Association of UK Coal Importers and Producers.

CoalImp represents major coal users (including most of the coal-fired generators in the UK) UK coal producers, rail companies, ports, and other infrastructure operators. The twelve members (listed on the CoalImp [website](#)) account for the handling, transportation and use of the majority of UK coal production and imports, in turn representing the vast majority of all coal transported by rail in the UK.

Individual CoalImp members, in particular freight operating companies and generators, will be responding in detail, covering all the topics in the consultation document. The submission below concentrates, in more general terms, on key issues of concern to our members as the PR18 process kicks off. We look forward to engaging in this process as it evolves, and indeed would welcome an early meeting to set out some of the broader issues impacting coal by rail, now and in coming years, in the context of Government's wider energy policy aspirations.

Introduction and Background

Following a period of high coal demand earlier this decade, and corresponding high levels of coal-by-rail traffic, the coal market has seen a catastrophic collapse over the last year or so, as a direct result of Government policies. The UK's unilateral carbon price floor has caused the premature closure of coal-fired power stations and very low levels of summer running at those that remain.

It would, however, be premature at this stage to 'write off' coal as an important part of the electricity mix; low levels of coal burn in summer are not unexpected in current circumstances, but in the winter months we may expect to see coal plant back on line. UK electricity capacity margins are at historically low levels,

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www.coalimp.org.uk

coal plant has been successful in bidding for Capacity Market contracts, and in the meantime some are also covered by the National Grid's Contingency Balancing Reserve.

Notwithstanding Government proposals to close all unabated coal plant by 2025, in the interim, coal plant is capable of providing the most economical and secure transitional power capacity in the UK. But there has been an unprecedented sudden, rapid and continuing collapse in the market for coal-fired electricity following the hike in the Carbon Floor Price from April 2015. The market collapse is also seriously damaging rail and port infrastructure as well as the remaining indigenous coal production industry.

CoalImp's key concern, in responding to this consultation, is that rail network issues and charges do not create further obstacles to coal's participation in the UK energy market during the period when it is still able to do so.

Whilst this response is primarily related to coal, we acknowledge that some of our members are also active in the biomass market, and there are significant synergies between coal and biomass traffic. The comments below should therefore also be understood in this context.

CoalImp Comments on the Consultation Document

Chapter 2: Context for the review

The proposal for a Freight Route in the Shaw Report is under active consideration by Network Rail (NR) and yet is not mentioned further in the consultation document. For freight customers this is a major uncertainty when taken with the proposal to regulate NR at Route level. Members' traffic typically covers several Routes and it is unclear how revenue and performance would be regulated across these Routes and a 'virtual' Freight Route. Presumably the virtual Freight Route would receive all revenue and pay some sort of transfer price to the 'real' Routes. In this case would such transfer prices and arrangements be regulated?

Chapter 3: Focusing the review where it can have most impact for passengers and freight customers

CoalImp believes that letting freight run in faster, more efficient paths, can support ORR's priority of a Better Used network. The result would be for freight to occupy less space and time, and avoid the potential performance issues which arise from recessing freight in loops and sidings in order to save a few minutes on lightly used passenger services. This would require a re-evaluation of the worth of a minute of journey time to passengers and to freight. For example, there are cases where such a review may show that delaying a passenger service by 3 minutes, allows the creation of a new freight path, or saves 45 minutes waiting time of an existing freight path.

The System Operation function is key to much of this; the train planning rules and principles should be included in a Better Used review. Efforts are needed to build the optimum timetable for best use of the network rather than the traditional approach of planning the passenger service first and fitting freight

around it. A further refinement needed is to give preference to freight paths which run most, rather than those which appeared on the graph first. Members are concerned that NR does not have the technological and human resources to optimise the train plan and therefore deliver the 'better used' objective.

ORR's comments are noted, that most stakeholders think that the possessions and performance regimes are fit for purpose. Network availability is however very important to freight, as a large proportion of possessions are planned for night time. This is the very time when freight has an opportunity to run in faster paths and is needed to support 24 hour operations. There should be a regime to check that regular possessions (such as 1 in 6 weeks on nights) are needed, are not excessively long, and are used efficiently.

Chapter 4: Our proposed approach to the review

Route-level regulation

Members have some reservations about the approach of regulating at Route level, best expressed as a series of questions which are not felt to be clear from the consultation document:

- How will freight stakeholders engage in the review if it is conducted at Route level?
- Will the virtual Freight Route be regulated?
- Could charges vary by Route?
- Does this approach, relying on comparisons between Routes, limit efficiency improvements to the best of the UK rather than bringing standards up to world class. What if all UK routes are significantly worse than world best?
- Will significant new costs be generated by each Route setting up or bolstering its own regulatory department? Will the Route focus be more on ORR than on its customers?
- Will Routes see freight as a nuisance and a potential obstructer to achieving its principal regulatory targets, especially if revenue goes to the 'virtual' Freight Route?

System operation

CoalImp supports scrutiny of the system operation function, as Better Use of the network begins with the Train Plan and allocation of capacity. The average schedule velocity for freight should become a key performance metric for the system operator. This will support ORR's objectives of Efficiency and Better Use.

Outputs & monitoring

CoalImp's generator members note the intention to include 'local stakeholders' in setting outputs and would welcome the opportunity to be included in this.

Charges & incentives

This is an area of key concern to freight customers. Track Access Charges are a large proportion of the rail costs and therefore of the logistics cost of coal generation. Any prolonged period of uncertainty over future charging levels can be damaging to decisions impacting the future of coal-related assets, particularly if large changes are proposed or rumoured.

Industry needs stability, particularly given the general level of uncertainty in the economy and in coal fired generation. Freight customers should not have to go through another protracted, highly uncertain, bottom up exercise. CoalImp would suggest that track access charges should be capped at present CP5 levels to avoid further detriment to freight operators and customers.

Perverse incentives in the allocation of passenger revenue can incentivise operators to run services to destinations purely to secure a share of revenue rather than to meet customer demand. Such services add to track congestion and block freight capacity. Similarly, trains turning back in 'unnatural' locations occupy track time and block freight. These practices need to be reviewed if the industry is to deliver a better use and more efficient network.

A major concern is that the Route level approach will lead to differential charging; i.e. different charges in each Route, based on different asset bases, output settings, and income assumptions.

Approaches for enhancements

Members are concerned that freight enhancements will not receive the appropriate level of priority following the devolution of responsibility to the Routes and their inevitable focus on the dominant passenger franchise.

Conclusions

Following a period of high coal demand earlier this decade, and corresponding high levels of coal-by-rail traffic, the coal market has seen a catastrophic collapse over the last year or so, as a direct result of Government policies. CoalImp's key concern, in responding to this consultation, is that rail network issues and charges do not create further obstacles to coal's participation in the UK energy market during the period when it is still able to do so.

CoalImp believes that letting freight run in faster, more efficient paths, can support ORR's priority of a Better Used network. The average schedule velocity for freight should become a key performance metric for the system operator.

CoalImp is keen to understand how the separate settlement with each Route will work for freight which crosses several Routes, particularly if there is a virtual Freight Route. In particular will there be different charges for each Route, reflecting its asset base, congestion or capacity or performance levels?

Track Access Charges are a large proportion of the rail costs and therefore of the logistics cost of coal generation. CoalImp urges ORR to try to simplify the

charging structure and issue an early assurance to freight customers that CP6 charges will be capped at present levels.

We look forward to being involved in future consultations.

Yours faithfully

Nigel Yaxley
Managing Director

Response to ORR’s initial consultation on the 2018 periodic review of Network Rail (PR18)

This pro-forma is available to those that wish to use it to respond to our consultation. Other forms of response (e.g. letter format) are equally welcome.

Please send your response to pr18@orr.gsi.gov.uk by **10 August 2016**.

Full name	Richard Finch
Job title	Strategic Transport Manager
Organisation	Croydon Council (Planning & Strategic Transport, Place)
Email*	
Telephone number*	

*This information will not be published on our website.

Chapter 2: Context for the review

We invite stakeholders to comment on whether they agree with our view of the context for PR18 or whether they consider there are additional significant points. (If the latter, please explain how these might affect the review).

Croydon council officers consider that the ORR 2018 periodic review of Network Rail (NR) (PR18) should include a schedule of the next key NR infrastructure improvement priority projects for the forthcoming related control period.

Croydon requests that NR, with the support of the ORR, presses ahead with the development and delivery of the NR Brighton Mainline upgrade (BMU) project to significantly enhance the capacity of this key railway artery linking London to Brighton.

The NR BMU project will deliver new railway capacity for 8 extra trains (6,000 seats) from East/West Sussex/Surrey via Croydon through to central London in each busiest hour, as well as other benefits, including:

- Significant performance improvements
- Some journey-time reductions
- Croydon (and wider southeast) regeneration benefits

The purpose of the NR BMU programme is to provide additional rail capacity on the central London – Croydon – South Coast route, aiding with sustainable economic growth of the wider L&SE region.

Chapter 3: Focusing the review where it can have most impact for passengers and freight customers

We welcome views on the proposed relative priorities for the review, as well as any other areas

that should be prioritised (in which case, we would particularly value views on what should not be prioritised as a consequence).

Croydon council officers consider that NR investment priorities in railway infrastructure should be designed to support sustainable growth in terms of the need to improve rail accessibility for new housing and jobs.

NR resources can also be used to reduce regional and sub-regional social and economic inequalities by improving rail infrastructure connectivity, as well as urban regeneration.

Chapter 4: Our proposed approach to the review

We would like to know if you agree with the overall approach that we have set out for the review.

We would also welcome additional suggestions and proposals for how we might adapt our regulation to the current context. It would be helpful if you could arrange your comments around the headings in the chapter (set out below) where these are relevant to your response.

1) Route-level regulation

Regulating on route level would be an opportunity for the ORR to support NR in focusing resources and efforts on improving key route corridors to benefit the overall national railway network.

From Croydon's viewpoint, the council would urge the DfT, ORR and NR to invest in the Brighton Mainline Upgrade capacity enhancement improvement project focused around East Croydon station and Selhurst Junction. This area is currently a key congestion point on the rail network between central London and the south coast via East Croydon and Clapham Junction.

Despite significant growing passenger and train numbers, the Brighton Mainline's infrastructure has not, at any stage, been reconfigured to reliably accommodate these increases. This is in contrast to most other comparable routes on the national railway network.

Croydon would also request that NR work with Transport for London (TfL) and the council to investigate the feasibility of a tram-train link between Croydon and Crystal Palace station to passenger services.

2) System operation

N/A

Outputs & monitoring

N/A

Charges & incentives

N/A

Approaches for enhancements

N/A

ERTMS and related technology

N/A

Chapter 5: Developing the high-level framework for the review

We welcome views on how our high-level approach could be implemented and on the potential framework set out in chapter 5. As part of this, we invite thoughts on what it is practicable to achieve in PR18 and in CP6, and what might be more realistic to achieve in the subsequent periodic review.¹

We would also welcome any further suggestions and ideas on how we might improve how we regulate Network Rail.

N/A

Chapter 6: Process and engagement

We would be grateful for comments on the proposed phases of the review, including any views on the [draft timetable](#) and our proposed approach to engagement.

We also invite high-level views on the process for customer engagement by Network Rail's routes and the system operator to inform their business plans, in terms of what is achievable for this review.

We would also welcome any views on how Network Rail and train operators would like to engage and be involved in the implementation process for PR18 and any thoughts on the process relating to Network Rail's right to object to our determination.

Croydon Council officers would appreciate being kept informed of proposed changes to railway infrastructure and operations etc.

Any other points that you would like to make

N/A

Thank you for taking the time to respond.

¹ You may also wish to read and comment separately on the working papers that we will publish following this consultation document.

CUMBRIA LEP AND CUMBRIA COUNTY COUNCIL RESPONSE TO OFFICE OF ROAD AND RAIL

PERIODIC REVIEW INITIAL CONSULTATION



TABLE OF CONTENTS

Page 3 – Strategic Introduction

Page 4 – Rail Priorities

Page 11 – Delivery and Prioritisation

Page 12 – Conclusion

Appendix A – Cumbria Coast Railway Improvements

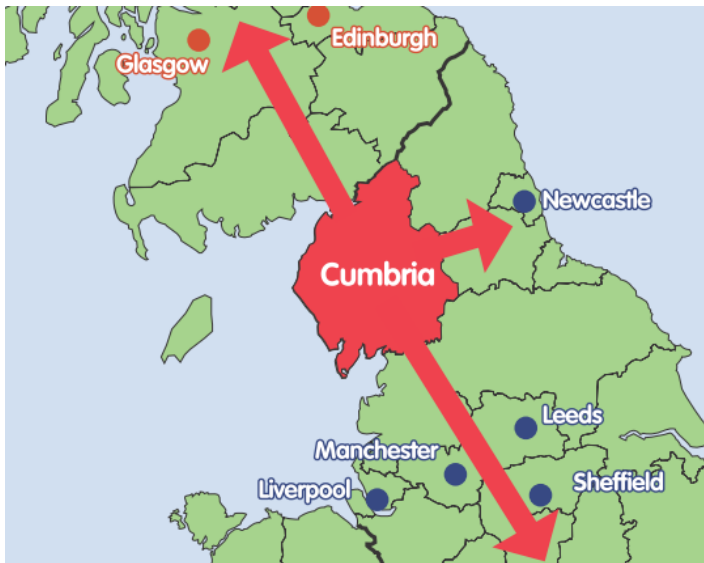
Appendix B – Lakes Line Improvements

Appendix C – Furness Line Improvements

Appendix D – West Coast Mainline Improvements

Appendix E – Tyne Valley / Hadrian's Wall Line Improvements

1. STRATEGIC INTRODUCTION



Cumbria is a key part of the Northern Powerhouse, providing a strong and export orientated economy and the power, water and environment that helps drive growth within the wider UK.

This strength is reflected in the level of investments coming into our county over the next decade, approximately £25

billion in total. This will see 5 of the 8 largest proposed investment projects in the North West being delivered in the county.

Of particular importance are proposals for a major nuclear power plant at Moorside in West Cumbria. When complete this will provide 7% of the UK energy supply. This investment will underpin the status of West Cumbria as a world leader in the nuclear sector and in so doing drive further investment and exports.

However, Cumbria's excellence is not limited to nuclear, with cutting edge activity in advanced manufacturing (for example BAE and GSK investments in Furness), renewable energy, sustainable tourism and food and drink. Supporting these sectors, there is a determination to deliver more housing growth and attract commercial and leisure investment to benefit residents and visitors alike.

This potential is recognised by the Cumbria Strategic Economic Plan which identifies four priorities that will drive future growth in Cumbria:

1. Advanced Manufacturing Growth
2. Nuclear and Energy Excellence
3. Rural and Visitor Economy
4. Strategic Connectivity of the M6 Corridor

The strengths and priorities of Cumbria closely align with those of the Northern Powerhouse the Independent Economic Review highlighting opportunities for future strategic growth.

2. RAIL PRIORITIES

The potential Cumbria possesses is undoubted; however infrastructure within the county does act as a barrier to it making its fullest possible contribution to the UK economy. Recognising this, the Cumbria LEP has prepared the Cumbria Infrastructure Plan. This Plan sets out key infrastructure interventions required for Cumbria to fulfil its economic potential. In doing so it had regard to infrastructure capability, economic and housing growth and the pipeline of major investments in the County.

A strong theme within the infrastructure plan revolves around the need to enhance transport capacity with rail improvements being a top priority. These are recognised as especially critical in supporting the delivery of major nationally significant infrastructure projects, and the movement of freight and passengers to, from and within the County.

Major projects planned in Cumbria over the next decade



In particular there are a number of interventions which must be delivered within the next Rail Control Period. These are summarised below with further information available within appendices and supporting information.

First Tranche of Improvements – Full Delivery by 2019-21:

▪ Improvements to the Cumbrian Coast Line.

Within North, West and South Cumbria the Cumbrian Coast Line provides essential connectivity between key settlements, large employment sites (i.e. Sellafield employing c. 14,000 people), ports at Workington and Barrow and the West Coast Mainline.

This connectivity represents a critical component of the Cumbrian economy; already the County has two-thirds of the UK's nuclear installations and a cutting edge advanced manufacturing sector. By linking many of key locations the line can play a significant role in the development and growth of these sectors; helping to improve access to local and national markets via the West Coast Mainline, increasing travel-to-work areas and in carrying the goods and material needed to support the construction and operation of major projects.

In particular the significant energy, nuclear and minerals developments planned in west Cumbria require adequate rail capability for both passenger and freight. The majority of the developments shown are dependent on rail for the movement of people and goods or materials. Key developments that are progressing rapidly include:

- **NuGen Moorside Nuclear Power Station** - new build nuclear power station which will be capable of supplying up to 3.8GW of electricity providing 7% of the UK energy supply. This investment will underpin the status of west Cumbria as a world leader in the nuclear sector and in so doing drive further investment and exports;
- **Sellafield decommissioning works** - approximately £10bn of investment is anticipated at Sellafield up to 2030 to support ongoing decommissioning;
- **Drigg Low Level Waste Repository (LLWR)** - ongoing construction works at the facility which treats and disposes of low level radioactive waste;
- **National Grid** - an estimated £2bn investment to connect the electricity generated by proposed energy projects in Cumbria to domestic and business customers; and
- **West Cumbria Mining** - extraction of 2-3m tonnes pa of high-quality coking coal from Irish Sea coalfields over the next 20 years for use in European steel production.

The ability to meet rail transport demands from these developments makes the Cumbrian Coast Line 'mission critical' for delivering significant economic growth within the Northern Powerhouse but as things stand the line cannot accommodate the level of growth anticipated, therefore putting at risk the deliverability of the infrastructure projects. Sitting alongside these development impacts; the recent Northern franchise award requires increased passenger services on the line.

To deliver transformational growth in West Cumbria there is a clear requirement for a significant increase in train path availability and to do so a range of critical interventions have been identified including new sections of line and passing loops, signalling and line speed improvements.

Timing is a key issue for the Moorside project in particular. The delivery programme for Moorside will require the earliest improvements to be delivered in 2018/19. Although challenging, work has been ongoing and discussions with Network Rail, Train Operators and DfT are advanced and we are seeking to work with Network Rail and the development industry to progress the necessary GRIP 0-3 study work.

This joined up working has potential to realise real benefit, in allowing the developments that benefit from additional train paths to achieve delivery of improvements through a single coordinated intervention that will aid Network Rail resource planning and minimise disruption to the line. The principle of a single coordinated intervention enjoys unequivocal support from Network Rail and the Rail North/DfT Partnership.

Moreover we are looking to promote an innovative route to delivery tying in significant third party developer funding contributions for the collective improvements required. This will require the support of Network Rail and ultimately from ORR in Control Period 6 for this approach to be successful. As such, the LEP and the County Council wishes to work jointly with Network Rail to prepare a business case for investment in the Coast Line in Control Period 6. The business case will demonstrate the return on investment that can be achieved through capturing third party developer contributions, including those we anticipate will be committed by NuGen, together with future operational savings by reducing the maintenance liability and combined with income growth from increased use of the line.

More information has been provided within Appendix A.

- **Improvements to the Lakes Line**

The Lakes Line plays a critical role in supporting the Cumbrian tourist economy worth £2.6 billion annually. In particular, the connectivity the line provides enables the Lake District to integrate with the cities at the heart of the Northern Powerhouse and to grow its international tourism offer. The role of this line is further completed by a range of sustainable transport improvements that facilitate the onward movement of visitors to the Lake District.

The line is not currently electrified and is only single track and is operated with a token (“one train in steam”) basis. This restricts the service to approximately hourly and does not allow for a regular, frequent stopping service plus through trains to Manchester Airport.

Electrification has been proposed as part of Control Period 5 but is currently delayed. The proposed electrification must therefore be delivered as part of Control Period 5 or by the beginning of Control Period 6. Delivery of this together with a passing loop at Burneside will mean 4/5 direct trains services to Manchester International Airport (MIA) can be re-introduced as part of the Northern Connect service in 2019; it will be critical for this improvement to be delivered ahead of this.

More information has been provided within Appendix B.

Second Tranche of Improvements – Full delivery by 2021-24

▪ Improvements to the Furness Line

The Furness Line plays a vitally important role in the Cumbrian economy. It provides essential connectivity between Barrow-in-Furness and other key service centres and employment sites along the Furness Peninsula and the wider UK via the West Coast Main Line and lines serving Manchester.

Furness is a critically important industrial location, particularly for Advanced Manufacturing, with Barrow-in-Furness being home to the BAE Systems Successor Programme where the UK's new generation of nuclear submarines will be built, and Ulverston containing GSK and Siemens who are both expanding their specialist manufacturing.

The line is essential to sustaining current activity and supporting continued growth of the local economy. Moreover, it will play a critical role in supporting National Grid's construction of a new 22km tunnel to carry power cables under Morecambe Bay to connect the proposed Moorside Nuclear Power Station to UK energy consumers. The line also complements the Cumbrian Coast Line in providing an essential rail link between major energy sector freight demand generators in West and South Cumbria and the West Coast Main Line.

While important, the line still does not fulfil its potential. In particular there are constraints created by limited line speeds, the current inability to operate electric trains and a shortage of diesel rolling stock. These gaps reduce capacity and increase journey times to the detriment of freight and passenger movements. Critically they also prevent services to Manchester Airport – a significant gap given the strength of the advanced manufacturing sector and the growing visitor economy.

Electrification of the Furness Line needs to be addressed in Control Period 6 so as not to disadvantage the Furness peninsula from being able to retain direct services through to Manchester and Manchester International Airport. Addressing the issues identified above will bring significant benefit, supporting the further growth and diversification of economic clusters throughout the County and that of the wider Northern Powerhouse.

More information has been provided within Appendix C.

▪ Improvements to the West Coast Main Line

The connectivity this line provides is essential to the continued viability of our economy. In particular it provides essential strategic connections from the heart of London, the Midlands, Cheshire and Lancashire and central Scotland to Cumbria and the range of intensive and export orientated businesses within the County. The line also provides a critical freight facility for the UK economy and to support the delivery of nationally significant investment within the Cumbria.

Despite this important role, there are capacity constraints at various points along the route. This is primarily due to the presence of just two tracks to the north of Preston and the mix of services on the route such as fast, 100mph plus passenger services and a variety of mixed-haulage freight services. Passenger numbers are growing significantly while freight capacity issues that exist on the line are also likely to increase due to baseline economic growth, an anticipated reduction in freight capacity north of Crewe following HS2 delivery, and the delivery of major infrastructure projects in West Cumbria. Without significant improvements, lack of line capacity will hamper the growth of the UK.

Moving forward, it is planned that HS2 'Classic Compatible' services will serve Cumbria and it will be essential that these can be accommodated on the network with suitable connections between HS services and the WCML, necessary track improvements and additional facilities at stations. In particular facilities at Carlisle require significant enhancement to support rail capacity and to enable the station to the fullest strategic role in the economy. Recommendations for improvements to Carlisle station have been put forward in response to the Inter City West Coast Franchise consultation. However, it is recognised that this will require a partnership approach between the franchisee and Network Rail. Given Carlisle's strategic significance on the rail network and as a northern hub station, there will be a need for alignment between activity by the franchise operator and Network Rail's investment plans in Control Period 6.

More information has been provided within Appendix D.

- **Improvements to the Hadrian Wall Country / Tyne Valley Line**

The coast to coast connectivity provided by the line across the far North of England is essential. As well as supporting the movement of workers and visitors between the cities of Carlisle and Newcastle and all the settlements in between, the interchange offered at stations on the East and West Coast Mainlines supports UK interregional passenger movements.

The Line also supports the east to west movement of diesel trains, an especially important issue in supporting the movement of freight and rail diversions. From 2018 a significant increase in minerals freight traffic is anticipated between West Cumbria and North East ports, in part linked to the West Cumbria Mining proposals.

This Line already plays an important role in the far North of England, however the full potential of it is not being realised. In addition to the freight demands, there is also potential for additional passenger traffic with labour travelling from the north east to west Cumbria to access the employment opportunities at Moorside. The Tyne Valley line runs parallel to Hadrian's Wall and is therefore important to the tourism sector in the North of England. Improved connectivity would help boost visitor numbers to the internationally renowned Hadrian's Wall World Heritage Site. Appropriate infrastructure works and maintenance enhancements are required in the short term to meet minerals and passenger

traffic growth. Electrification, improved capacity, station improvements and increased line speeds are all considered critical to address the Line's ability to improve its offer as a vital inter-regional connector.

More information has been provided within Appendix E.

Subsequent Control Periods

- **Extension of Edinburgh Waverley Line to Carlisle**

The extension of this line to Carlisle would deliver support for a diverse rural economy within the Border area and enhance visitor numbers between Cumbria, Scottish Borders and Edinburgh. This historical line would help unlock growth opportunities along the railway line and thereby help to sustain rural communities.

- **Full HS2 Connectivity to Cumbria**

It will be important that should HS2 lines be extended to Scotland, essential rail infrastructure can be delivered within Cumbria. This should have regard to the infrastructure identified in the *Broad options for upgraded and high speed railways to the North of England and Scotland* report but should also ensure delivery of station infrastructure that can maintain access, stops and service frequency to the County. It will be important that Cumbria is not disadvantaged by HS2 and any potential bottlenecks in the network as a consequence of improved HS2 are addressed concurrently with the HS2 project.

Also supporting this document and appendices are a range background evidence providing further information:

1. Cumbria Infrastructure Plan, AECOM on behalf of Cumbria Local Enterprise Partnership, April 2016
2. Cumbrian Coastal Railway Improvements Phase 1 Application to the Large Local Major Transport Schemes Fund, AECOM on behalf of Cumbria Local Enterprise Partnership, May 2016
3. Cumbrian Coast Line, The Railway Consultancy on behalf of Cumbria County Council, March 2014
4. Business Case for Cumbrian Coast Line Rail Service Improvements, Cumbria County Council, May 2014
5. Cumbrian Coastal Railway Capacity Study, Arup on behalf of Cumbria County Council, October 2010
6. Cumbrian Coast Railway (sic) Final Report, Arup on behalf of Cumbria County Council, December 2012
7. Furness Line Study, The Railway Consultancy Ltd, August 2014
8. Inter City West Coast Franchise Consultation response, August 2016
9. High Speed Two: East and West The next steps to Crewe and beyond, HS2 Ltd, November 2015
10. Carlisle Southern Gateway Prospectus, AECOM for Cumbria Local Enterprise Partnership, July 2016
11. Delivering a better railway for the North West and West Midlands: our plans for 2014-2019, Network Rail, 2014

12. North West Electrification improving rail travel across the North West, Network Rail, 2014
13. Gilsland Station Network Rail Feasibility Study (GRIP2), Network Rail, 2016 – DRAFT

3. DELIVERY AND PRIORITISATION

We welcome the drive for more innovative and flexible approaches to the identification and delivery of rail improvements during Control Period 6.

Reflecting this, the Periodic Review should be clearer in stating that during the identification of priorities, weight would be given to locally promoted improvements that deliver clear benefit (opposed to just major projects prioritised by central Government like HS2 and HS3). This principle is true of a number of schemes within Cumbria, most critical being the Cumbrian Coast Line, the upgrade of which is needed to support delivery of nationally significant energy, waste and mining proposals.

We also welcome a more flexible approach to the introduction and utilisation of third party capital to support scheme delivery. In line with this, during the finalisation of the Periodic Review, there needs to be even more explicit recognition for innovative approaches to funding including:

- Utilisation of developer contributions to support delivery of new infrastructure;
- Using future Network Rail revenue created by increased rail capacity and usage to forward fund improvements; and
- Taking opportunities to deliver upgrades in conjunction with necessary maintenance programmes;

Again, these are principles Cumbria is looking to promote in order to secure the essential upgrade of the Cumbrian Coast Line. Here there is a strong case for investment supported by a combination of developer contributions, future operational savings and additional income generation from increased train path utilisation.

Similarly, there are opportunities for collaboratively working in relation to Carlisle station to enable this northern hub to make its full contribution to the rail network but also to enable wider regeneration opportunities to be realised to boost the growth potential of Carlisle.

Overall, we welcome the shifting emphasis to more innovative approaches to the prioritisation and delivery of improvements. Moreover we are encouraged that these principles are in alignment with the approaches we are advocating within Cumbria.

4. CONCLUSION

Cumbria is on the cusp of achieving transformative growth, the benefits of growth and investment will be important to both the Northern Powerhouse and “UK Plc”. Rail will play a critical role in getting us there.

In this regard we consider the support to be provided via the Periodic Review and CP6 to be critical. As articulated through this submission and appendices we recognise a critical need for the following lines to be enhanced:

- Cumbrian Coast Railway
- Lakes Line
- Furness Line
- West Coast Mainline
- Tyne Valley / Hadrian’s Wall Line

We consider that it will be essential when considering the approach to prioritisation, there will need to be clear support for quality locally promoted schemes and in particular, those that can be supported by innovative funding proposals.

While it is expected that this response is helpful, moving on we would welcome the opportunity for further engagement and opportunities to present our rationale for investment.

Appendix A – Cumbrian Coast Line

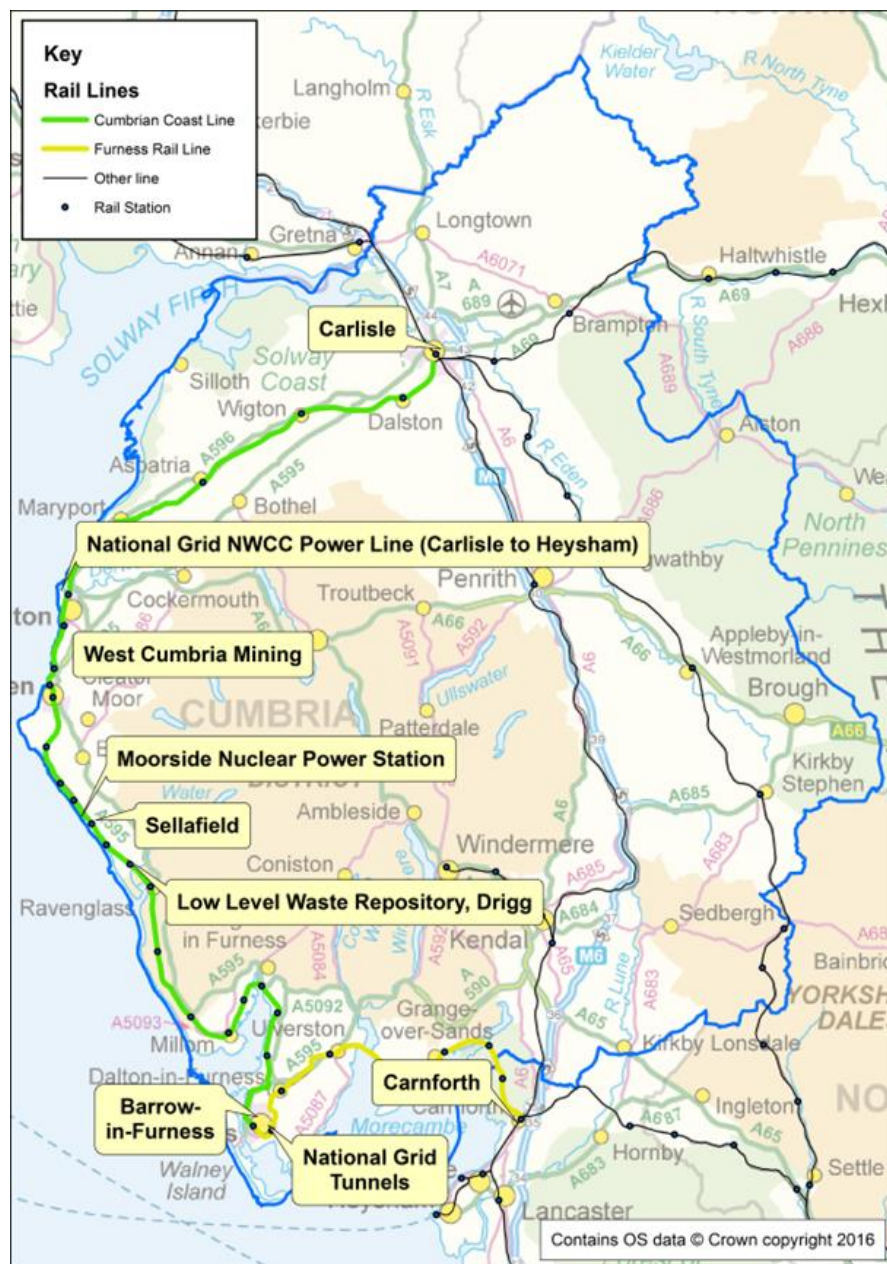
Name of Line

Cumbrian Coast Line

Geography of Line

The Cumbrian Coast Line is a long-distance route linking Carlisle and Barrow-in-Furness, see map (see Figure 1).

Figure 1: Cumbria & The Cumbrian Coastal Railway



The route traverses the back of the Solway Plain from Carlisle to Maryport via Wigton and Aspatria, then follows the narrow coastal strip through Workington, Whitehaven and Sellafield to the west of the Lakeland Fells, before turning via Millom around the shore of the Duddon estuary and skirting the west side of the Furness peninsula via Askam to Barrow-in-Furness. The Line connects directly with the West Coast Main Line at Carlisle and, via the Furness Line, at Carnforth.

The area of West Cumbria it serves is not readily accessible by road from the M6 corridor other than via the A66 and A590 strategic routes, both of which are constrained at various locations. The railway is therefore of strategic significance for connectivity in Cumbria, the Northern Powerhouse and the UK – the map shows significant developments in the nuclear, energy and minerals sectors coming forward in West Cumbria in the next 10 years. Of particular importance are the nationally significant infrastructure proposals for a major nuclear power station at Moorside in West Cumbria (immediately north of Sellafield).

Importance of line

The Cumbria Local Enterprise Partnership (Cumbria LEP) recognises the critical importance of the Cumbrian Coast Line for supporting sustainable economic growth, particularly in the nuclear and advanced manufacturing sectors. Cumbria is a key part of the Northern Powerhouse, providing a strong and export orientated manufacturing economy and the power, water and environment for the wider UK. This strength is reflected in the level of investments coming into our County over the next decade, approximately £25bn in total.

The Cumbrian Coast Line provides essential connectivity between key service centres in North, West and South Cumbria, large employment sites (i.e. Sellafield employing c. 20,000 people) and education and leisure opportunities for the resident population, and supports visitor access to the coastal section of the Lake District National Park. It is also a vital link for a number of smaller communities along the coastal strip where road access is relatively poor / indirect. The Line has significant potential to increase rail mode share for travel-to-work to major employment locations and to improve visitor access to the harder to reach parts of the Lake District National Park provided it can offer a regular and reliable passenger service with sufficient capacity.

The linkages this line creates are a critical element to the Cumbrian economy. Already the County has 2/3 of the UK's nuclear installations and a cutting edge advanced manufacturing sector. This line links many of these key locations and will play a key role in the growth and development of economic clusters.

Of most pressing importance, the significant energy, nuclear and minerals developments planned in West Cumbria (see Figure 1 above) require adequate rail capability for both passenger and freight. The majority of the developments shown are dependent on rail for the movement of people and goods or materials. Key developments include:

- **NuGen Moorside Nuclear Power Station** - new build nuclear power station which will be capable of supplying up to 3.8GW of electricity providing 7% of the UK energy supply. This investment will underpin the status of west Cumbria as a world leader in the nuclear sector and in so doing drive further investment and exports;

- **Sellafield decommissioning works** - approximately £10bn of investment is anticipated at Sellafield up to 2030 to support ongoing decommissioning;
- **Drigg Low Level Waste Repository (LLWR)** - ongoing construction works at the facility which treats and disposes of low level radioactive waste;
- **National Grid** - an estimated £1.3bn investment to connect the electricity generated by proposed energy projects in Cumbria to domestic and business customers; and
- **West Cumbria Mining** - extraction of 2-3m tonnes pa of high-quality coking coal from Irish Sea coalfields over the next 20 years for use in European steel production.

These development projects are all active over the same period (circa 2018-2028) and the cumulative impact of their rail transport demands is enormous. Cumbria LEP is quite clear that the Cumbrian Coast Line's ability to meet rail transport demands from these developments makes the Line 'mission critical' for delivering significant economic growth in Cumbria and the Northern Powerhouse.

Sitting alongside these developments, the recent Northern franchise award requires increased services, including longer hours of operation and Sunday services. Capacity to support these services will be critical.

See also Relevant Evidence section below for references to more detailed information regarding the importance of the line.

Key Issue facing line

The Cumbrian Coastal Railway (including both the Cumbrian Coast and Furness Lines) faces a number of general challenges which hinder its role as a key connector for both people and freight movement:

- To facilitate growth in the nuclear and renewable energy sectors and in securing Cumbria's position in these industries, infrastructure improvement is essential to and around Cumbria's ports;
- The current rail timetable does not support existing commuting patterns to Sellafield in particular and contributes to peak hour congestion on the adjacent highway. This problem will be exacerbated with forecast growth in workforce and movement of goods;
- There is significant planned long term investment in Barrow-in-Furness within the Advanced Manufacturing industry; the existing transport network will not cater for the forecast increased demand;
- There are train capacity issues at present on key Sellafield commuter services, this is a constraining factor to growth on the Energy Coast and will be exacerbated by forecast increases in demand;
- There are some point to point journey times on the Cumbrian Coast Line which are uncompetitive with car and bus travel. This presents an unattractive option to accessing the

Energy Coast and a lack of practical alternative should disruptions occur on the road network;

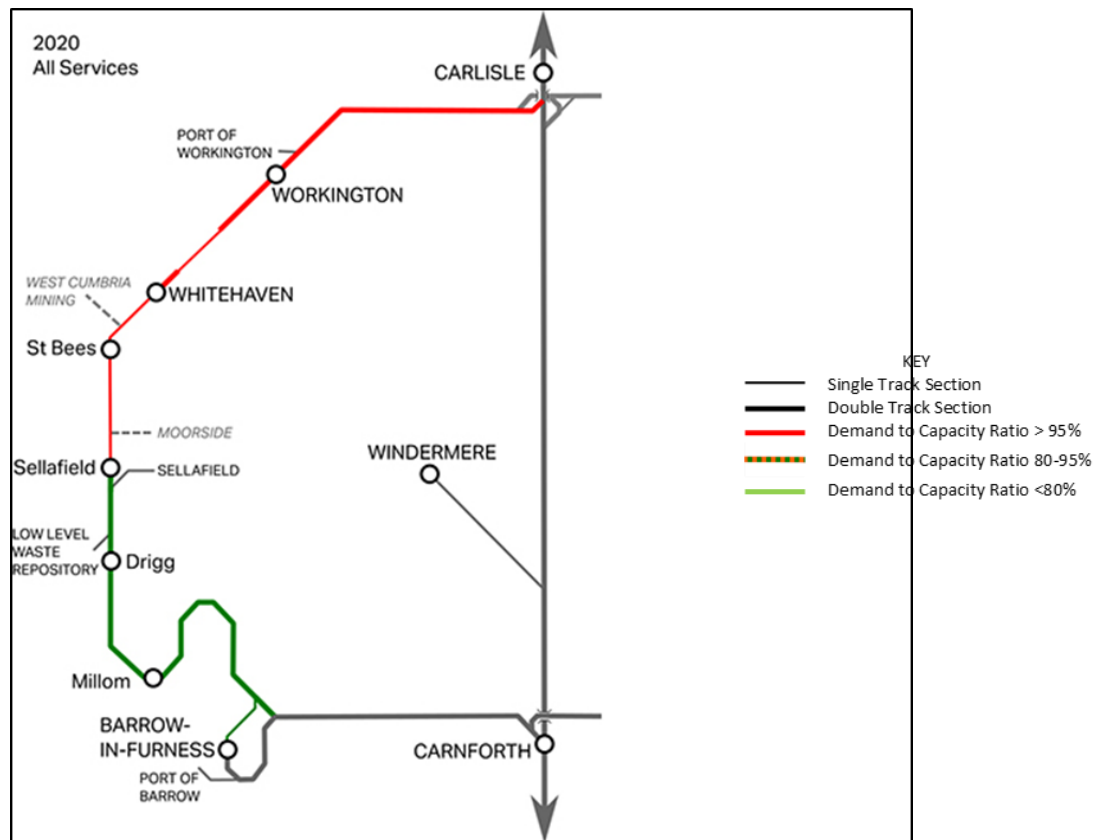
- There is very low passenger usage at some stations on the Cumbrian Coast Line;
- The Cumbrian Coast Line is vulnerable to flooding and coastal erosion. The existing maintenance programme will not be sufficient to cater for increased use of the line with forecast demand. Furthermore, the lines will become more vulnerable to damage by severe weather events with increases in severity due to climate change; and
- The provision of adequate and reliable capacity on the Cumbrian Coast Line will be a critical component for the delivery of UK energy security and carbon reduction commitments.

With specific reference to the Cumbrian Coast Line, there are a series of infrastructure constraints that currently affect both passenger and freight movements. Key issues that are associated with the line include the following:

- The Cumbrian Coast Line comprises a mixture of double and single track, with key areas of single track between Barrow and Park South Junction, between Sellafield and Bransty (Whitehaven), Maryport Station (where there is currently only a single platform) and a short section north of Parton where the line runs adjacent to the Irish Sea. These single track sections have the overall impact of limiting the capacity of the line;
- Existing line speeds are relatively low along the length of the route and whilst there are variations, at no point does the route exceed 60mph. There are also significant stretches of slow (15-25mph) running such as along the coast at Parton / Harrington, through Maryport and Whitehaven stations;
- Signalling between Barrow and Wigton is undertaken based on Absolute Block (between Barrow and Sellafield and Whitehaven to Wigton) and Token Block (between Sellafield and Whitehaven) systems. Signals are controlled by 12 manned signal boxes that are spread along the route and there are also 3 crossing gate boxes. The existing signalling technology is also a limiting factor that affects capacity along the route; and
- The resilience of the Cumbrian Coast Line is also affected by its vulnerability to coastal flooding, erosion and land slips.

Much study has been undertaken to quantify rail transport demands over the next 10 years arising from major developments and the new Northern passenger franchise, and current analysis indicates that Cumbrian Coast Line infrastructure is not able to fully accommodate the significant economic growth planned for the area and that significant capacity constraints are forecast to occur from 2019 onwards, impacting directly on the major developments cited above. A snapshot of cumulative demand versus capacity for the Cumbrian Coast Line in 2020 is illustrated in Figure 2 below, showing the extent of the capacity shortfall between Carlisle and Sellafield

Figure 2: All Potential Demand for Train Paths 2020



See also Relevant Evidence section below for references to information regarding key issues.

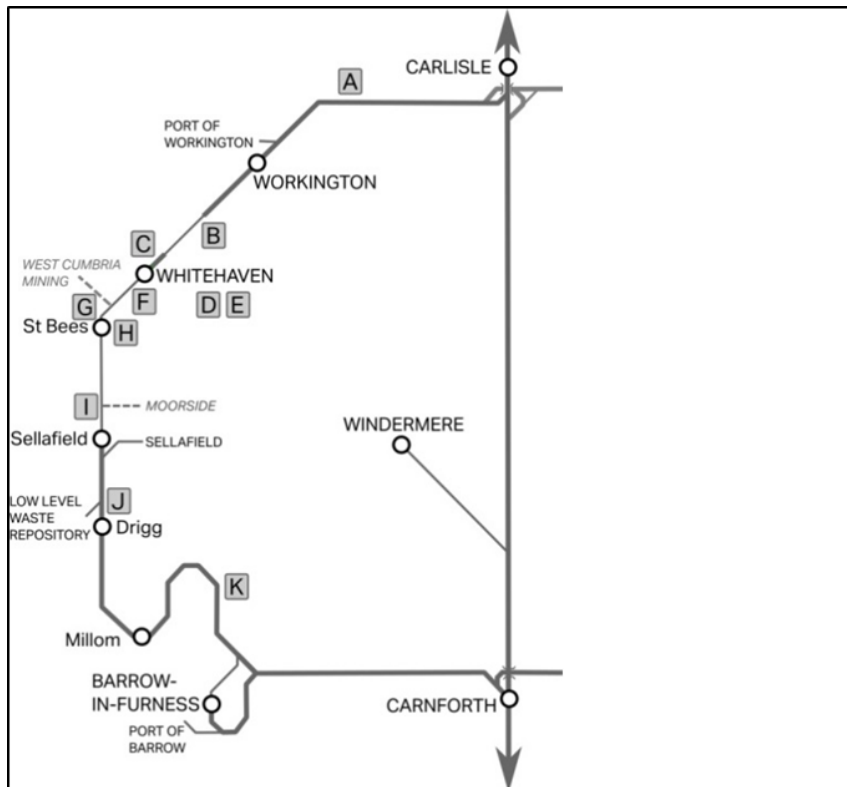
Specific Interventions required to address issues

On the basis of known developments and rail transport requirements, an initial estimate of the measures needed to improve Cumbrian Coast Line infrastructure are listed below and illustrated in Figure 3.

- A) Conversion of long absolute block section between Wigton and Maryport into 3 shorter block sections in total, i.e. 2 new intermediate block sections;
- B) Parton Sea Brows: Line speed improvement of single track section from 15mph to 45mph;
- C) 'Whitehaven North'. Infrastructure improvements to facilitate operational flexibility at (and immediately north of) Whitehaven station, including re-instatement of double track;
- D) Signalling mini-panel to control the line between (say) Maryport and Drigg, panel based locally or migrated to Manchester ROC;
- E) Extended signal box opening hours;
- F) New bi-directional loop(s) between Corkickle and former Mirehouse Junction;
- G) Double tracking between Mirehouse Junction and St Bees loop;

- H) St Bees loop extension;
- I) Moorside no. 1 & 2 sidings;
- J) Drigg LLWR: South facing connection; and
- K) Foxfield and Kirkby-in-Furness - Recommendations for line speed increases at these two restrictive locations.

Figure 3: Proposed Cumbrian Coast Line Improvements Scheme



Of the improvements listed above, F), H) and I) are currently included as Associated Development within NuGen’s Moorside Nuclear Power Station proposals and it is assumed these will be funded by NuGen as part of the works contained in its Development Consent Order (DCO) anticipated in Autumn 2018.

See also Relevant Evidence section below for references to more detailed information regarding interventions.

Rationale for interventions

The improvements listed above will provide additional train paths between Carlisle and Sellafield, improve line speeds, and reduce or eliminate obstructions to main line traffic from other train movements leaving / joining the mail line, such that the forecast train path requirements from all the major developments cited above can be met on the Cumbrian Coast Line without impacting on existing / committed freight or scheduled passenger services.

Study work to GRIP 2 has already been undertaken by Network Rail for NuGen for improvements F),

H) and I) that need to be delivered for the NuGen Moorside project. NuGen has identified these improvements as the minimum necessary to support their development in isolation of the other developments. Other developers are in discussion with Network Rail about similar study work.

However, it is clear from discussions with Network Rail that the ‘traditional’ approach whereby Network Rail enters into transactional arrangements with individual developers for appropriate GRIP studies and subsequent infrastructure works to support their individual development is simply untenable in the case of the Cumbrian Coast Line, for the following principal reasons:

- Network Rail would be unable to resource a series of separate transactional GRIP studies / works with such a number of individual developers simultaneously
- Repeated / incremental intervention through a series of separate transactional works on the Cumbrian Coast Line would be unworkable due to the prolonged / extensive disruption to rail traffic it would cause
- The level of disruption to Northern scheduled passenger services from a series of separate transactional works on the Cumbrian Coast Line would result in very significant financial penalties due to the much more revenue-sensitive franchise now in operation

The inevitable conclusion is that only a **single coordinated intervention** can deliver the infrastructure improvements (and therefore the train paths) on the Cumbrian Coast Line that all users require in time to meet rising demand without creating unacceptable levels of disruption on the Line. This approach has unequivocal support from Network Rail and the Rail North/DfT Partnership.

A single coordinated intervention is the approach Cumbria LEP and Cumbria County Council have been pursuing with invaluable help from Network Rail colleagues, together with the development of a robust mechanism for calculating the financial contributions that developers (i.e. the beneficiaries) should make to the cost of coordinated infrastructure works based on the proportion of the resulting new train paths they consume over an agreed period.

This proposed single coordinated intervention was subject of a Cumbria LEP bid for DfT Large Local Major Transport Schemes development funding to enable Network Rail to progress appropriate GRIP 0-3 studies based on cumulative demand.

Timescales for interventions

The timescales for the single coordinated intervention are illustrated below in Figures 4 and 5. They are extremely pressing if the improvements are to be delivered in time to meet forecast train path demand.

The studies for the NuGen components run ahead of those for the remaining components, but all GRIP 0-3 studies will need to be concluded and coordinated by the time the GRIP 0-3 studies for the remaining components are completed at the end of 2017/18.

The GRIP 0-3 studies will determine the precise programme, costs and phasing of the single coordinated intervention, but on current understanding the NuGen components will need to be

delivered and operational by 2019 followed by the remaining components in 2020 in order to meet rising demand.

Figure 4: Indicative Timescales for GRIP 0-3 Studies

Indicative Programme	2015 / 2016	2016 / 2017				2017 / 2018				2018 / 2019				2019 /2020			
	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
NwR GRIP 2 Study																	
Strategic OBC																	
DfT Decision																	
TOC Negotiations																	
NwR GRIP 3 Study (NuGen)																	
OBC Drafting / Finalisation																	
OBC Submission to DfT																	
NwR GRIP 4/5 Study (NuGen)																	
NwR GRIP 6 Construction (NuGen)																	
Infrastructure operational (NuGen)																	
NwR GRIP 0-2 Study (Non NuGen)																	
NwR GRIP 3 Study (Non NuGen)																	
NwR GRIP 4/5 Study (Non NuGen)																	
NwR GRIP 6 Construction (Non NuGen)																	
Infrastructure operational (Non NuGen)																	

Figure 5: Indicative Timescales for Cumbrian Coast Line Improvements Scheme Delivery

Indicative Programme	2015 / 2016	2016 / 2017				2017 / 2018				2018 / 2019				2019 /2020			
	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
NwR GRIP 2 Study																	
Strategic OBC																	
DfT Decision																	
TOC Negotiations																	
NwR GRIP 3 Study (NuGen)																	
OBC Drafting / Finalisation																	
OBC Submission to DfT																	
NwR GRIP 4/5 Study (NuGen)																	
NwR GRIP 6 Construction (NuGen)																	
Infrastructure operational (NuGen)																	
NwR GRIP 0-2 Study (Non NuGen)																	
NwR GRIP 3 Study (Non NuGen)																	
NwR GRIP 4/5 Study (Non NuGen)																	
NwR GRIP 6 Construction (Non NuGen)																	
Infrastructure operational (Non NuGen)																	

Delivery

Cumbria LEP’s DfT bid enshrines the principle of forward funding for the proposed single coordinated intervention with monies secured from HM Government, with developers paying back a share of the costs as and when their developments proceed developer contributions based on train paths consumed against the actual cost of delivering the capacity for additional train paths. Even if the DfT bid is unsuccessful, the principle of forward funding for a single coordinated intervention followed by developer contributions remains central and close engagement with Network Rail will remain critical to ensure the timely completion of GRIP 0-3 assessment.

Cumbria LEP and Cumbria County Council notes with great interest the encouragement within ORR's May 2016 initial consultation document for Network Rail to consider new and innovative approaches to the treatment of network enhancements to grow the railway in Control Period 6 and beyond, including a more flexible approach to the introduction and exploitation of third party capital.

Cumbria LEP and Cumbria County Council would greatly welcome Network Rail's continued engagement in the innovative approach captured in the DfT bid, and would request that Network Rail works with the LEP and the Council to develop a business case for improvements to the Cumbrian Coast Line for **delivery as a single coordinated intervention within Control Period 6**. The LEP and the Council believe there is a strong case to be made for investment supported by a combination of developer contributions, future operational savings and additional income generation from increased train path utilisation, and are very keen for Network Rail to adopt the most proactive position it can in this regard.

Relevant Evidence

Evidence relating to the proposed single coordinated intervention outlined in this proforma is available from the following sources.

Enhancements to the Cumbrian Coast Line emerged as a critical short-term priority scheme in the recent Cumbria LEP driven Cumbria Infrastructure Plan¹, which was an evidence-based undertaking informed through direct dialogue with local stakeholders.

The scheme presented in Cumbria LEP's application to the DfT Large Local Major Transport Schemes Fund has emerged through active partnerships including the Nuclear Transport Working Group, which includes representatives from the following organisations:

- Network Rail;
- DRS;
- Arriva Rail North;
- NuGen;
- National Grid;
- West Cumbria Mining;
- LLWR; and
- Sellafield.

In April 2016, the Cumbria LEP Board approved its Business Case for Cumbrian Coastal Railway

¹ Cumbria Infrastructure Plan, AECOM on behalf of Cumbria Local Enterprise Partnership, April 2016

Improvements Phase 1 (Carlisle to Barrow-in-Furness)².

In May 2016, Cumbria LEP submitted an application for development funding to the DfT's Large Local Major Transport Schemes Fund³. This funding would allow Network Rail conduct appropriate GRIP 0-3 studies that will allow preparation of an Outline Business Case to DfT WebTAG standards for a single coordinated intervention to improve rail infrastructure on the Cumbrian Coast Line to provide sufficient train paths to meet forecast demand for freight and passenger services.

Earlier study work regarding passenger service requirements on the Cumbrian Coast Line undertaken during the lead up to the Northern franchising process is captured in a 2014 report⁴ prepared for Cumbria County Council and a subsequent business case⁵ submitted by the Council to DfT as part of its engagement during the franchising process.

Even earlier study work regarding rail capability on the Cumbrian Coastal Railway is captured in two related studies from 2010⁶ and 2012⁷. Whilst now out of date in terms of detail, these studies provide useful background on the thinking which has helped to shape current proposals for rail infrastructure improvements on the Cumbrian Coast Line to support the significant economic growth planned in West Cumbria.

² Cumbrian Coastal Railway Improvements Phase 1 LEP Business Case (Appendix A to DfT Large Local Major Transport Scheme Fund application), Cumbria Local Enterprise Partnership, May 2016

³ Cumbrian Coastal Railway Improvements Phase 1 Application to the Large Local Major Transport Schemes Fund, AECOM on behalf of Cumbria Local Enterprise Partnership, May 2016

⁴ Cumbrian Coast Line, The Railway Consultancy on behalf of Cumbria County Council, March 2014

⁵ Business Case for Cumbrian Coast Line Rail Service Improvements, Cumbria County Council, May 2014

⁶ Cumbrian Coastal Railway Capacity Study, Arup on behalf of Cumbria County Council, October 2010

⁷ Cumbrian Coast Railway (sic) Final Report, Arup on behalf of Cumbria County Council, December 2012

Appendix B – Lakes Line

Name of Line
Lakes Line (Oxenholme – Windermere)
Geography of Line
The line connects the WCML at Oxenholme with heart of the Lake District. The line descends from Oxenholme to Kendal, crosses the river Kent and then runs through hilly country to the tourist destination of Windermere. The line is 10 miles long and Windermere is a hub station for onward travel into the Lake District National Park.
Importance of line
<p>The train services play a critical role in supporting the Cumbrian tourist economy currently worth £2.6 billion annually. The visitor economy is a key element of the Cumbria Strategic Economic Plan and this line provides rail links to the heart of the Lake District.</p> <p>The connectivity the line provides enables the Lake District to integrate with the cities at the heart of the Northern Powerhouse and to develop its international tourism offer. In this respect the line is being complemented by a range of sustainable transport improvements that facilitate the onward movement of visitors to the Lake District.</p> <p>The line also plays a vital role in supporting commuting and business travel, with links between Kendal and the West Coast Mainline being especially important in this respect.</p>
Key Issues facing line
<p>The line is not currently electrified and is only single track and is operated with on a token (“one train in steam”) basis. This restricts the service to approximately hourly and does not allow for a regular, frequent stopping service plus through trains to Manchester Airport.</p> <p>Electrification has been proposed as part of Control Period 5 North West Electrification programme but is currently delayed. This improvement is critical; meaning 4/5 direct trains services to Manchester International Airport (MIA) can be re-introduced as part of the Northern Connect service in 2019. The line needs at least an hourly service to all stations and a two hourly direct service to MIA.</p> <p>A feasibility study is proposed to examine the case for providing a passing loop between Staveley and Burneside stations to increase the capacity of the line. The study will also look at the optimum location of both stations as relocating them could resolve serious access and parking problems. Staveley is the gateway to Kentmere and has a thriving events programme but has a poorly located and, for many, inaccessible station.</p>

Specific Interventions required to address issues

- Delivery of the proposed electrification of the line to integrate it with the electrified northern rail network centred on Manchester / Manchester Airport
- The provision of a passing loop and associated signalling between Staveley and Burneside stations to increase line capacity.
- Resolution of access problems at Staveley station, currently only accessible via 41 steep steps. An access ramp or the relocation of the station are possibilities. Park & Ride facilities for Windermere may be a possibility if this station is relocated.
- Resolution of access and parking problems if Burneside station is relocated by 300 metres with the associated closure of one level crossing.
- Improved interchange facilities at Oxenholme station for connections between Lakes Line trains and WCML services. This includes the provision of toilets on platform 2/3 and additional covered waiting space – this is being included in the ICWC franchise consultation response.

Rationale for interventions

There has been steady growth in passenger numbers on the line and the CRP/Rail User Group has 11 years of passenger survey data. Current footfall for Lakes Line stations (incl. Oxenholme) is 1,194,000, an increase of 5% over 2013/14 figures.

Cumbria County Council, The Lake District National Park Authority (LDNPA) and Cumbria Tourism support modal shift from road to rail transport to access the heart of the Lake District. The SeeMore programme has contributed financially to the cost of the proposed feasibility study for the line. South Lakeland now hosts 16 million visitors and rail transport needs to provide better access to relieve road congestion and parking problems.

TransPennine Express, operators of the line until April, 2016, made the business case for electrification of the line and the re-introduction of through services to MIA in order to cater for the lucrative overseas tourist market including the newly introduced Beijing – Manchester flights.

Timescales for interventions

- Electrification is needed for 2019 at the latest when Northern's new electric trains are delivered and the Northern Connect services are introduced.
- The passing loop between Staveley and Burneside and associated signalling needs to be in place prior to electrification but passive provision will be made for a loop at a later date if necessary.
- The case for relocating of Staveley and Burneside stations needs to be made prior to

electrification.
Delivery
<p>Electrification will be carried out by Network Rail and the current cost estimate is £16 million. No power upgrade is needed and wires currently extend along the Lakes Line platform at Oxenholme station. Work is needed to six existing bridges as part of the current electrification scheme.</p> <p>The cost of the passing loop and any associated signalling has not been assessed but will be covered in the proposed feasibility study (to GRIP 2/3 level). Funding bids are being made to meet the estimated cost of the study (£32k). It is considered that the passing loop and station relocation/improvements must be delivered during the remaining period of Control Period 5 or at the beginning of Control Period 6.</p>
Relevant Evidence
<ul style="list-style-type: none"> • Cumbria Infrastructure Plan, Cumbria LEP, May 2015 • Delivering a better railway for the North West and West Midlands: our plans for 2014-2019, Network Rail, 2014 • North West Electrification improving rail travel across the North West, Network Rail, March 2016

Appendix C – Furness Line

<p>Name of Line</p>
<p>Furness Line (Barrow in Furness to Carnforth)</p>
<p>Geography of Line</p>
<p>The Furness line is a long-distance route running from Barrow-in-Furness along the South Cumbrian Coast, and round Morecambe Bay, edging the Lake District National Park to Carnforth where it joins the West Coast Main Line. Beyond Barrow the line links to the Cumbrian Coast line north to Sellafield and Carlisle, see Figure 1.</p>
<p align="center">Figure 1: Cumbria & The Cumbrian Coastal Railway including Furness Line</p> <p>Key</p> <p>Rail Lines</p> <ul style="list-style-type: none"> Cumbrian Coast Line Furness Rail Line Other line Rail Station <p>Map Labels:</p> <ul style="list-style-type: none"> National Grid NWCC Power Line (Carlisle to Heysham) West Cumbria Mining Moorside Nuclear Power Station Sellafield Low Level Waste Repository, Drigg Carnforth National Grid Tunnels Barrow-in-Furness Carlisle Langholm Longtown Haltwhistle Hexham Brampston Aston Wearmouth Wathby Appleby in Westmorland Brough Kirkby Stephen Windermere Sedbergh Bainbridge Kirkby Lonsdale Ingleton Settle Lancaster Hornby Grange-over-Sands Kendal Sunderland Coniston Ambleside Windermere Penrith Troutbeck Patterdale Ullswater Ravenglass Millom Uverston Dalton-in-Furness Walney Island Morecambe Bay Solway Coast Silloth Wigton Dalston Bothel Maryport Cockermouth Gretna Annan Annandale Longtown Hexham Wearmouth Wathby Appleby in Westmorland Brough Kirkby Stephen Windermere Sedbergh Bainbridge Kirkby Lonsdale Ingleton Settle Lancaster Hornby Grange-over-Sands Kendal Sunderland Coniston Ambleside Windermere Penrith Troutbeck Patterdale Ullswater Ravenglass Millom Uverston Dalton-in-Furness Walney Island Morecambe Bay Solway Coast Silloth Wigton Dalston Bothel Maryport Cockermouth Gretna Annan <p>Contains OS data © Crown copyright 2016</p>

Importance of line

Cumbria is a key part of the Northern Powerhouse, providing a strong and export orientated manufacturing economy. This strength is reflected in the level of investments coming into our County over the next decade, approximately £25bn in total.

The Furness Line plays a vitally important role in supporting the Cumbrian economy and providing essential connectivity between Barrow-in-Furness and other key service centres and employment sites along the Furness Peninsula and other business destinations in the UK via the West Coast Main Line and lines to Manchester. The passenger service is operated by Arriva Rail North as part of the new Northern franchise.

Furness is a critically important industrial location, particularly for Advanced Manufacturing with Barrow-in-Furness containing BAE Systems where the UK's new generation of nuclear submarines will be built, and Ulverston containing GSK and Siemens who are both expanding their specialist manufacturing. Significant new housing and employment development is either under construction now or being planned in both Barrow-in-Furness in the west, Ulverston and around Grange-over-Sands and Kent Banks in the east.

The line also provides a vital link for a number of settlements situated along the Furness Peninsula for education, leisure and work purpose – even the quietest stations comfortably exceed 10,000 passengers per annum. In fact usage may be significantly higher as historic revenue protection issues may be masking true patronage on the line.

There is also significant potential to further grow the line's role in supporting the visitor economy with its excellent access into to the Arnside and Silverdale AONB, around Morecambe Bay and along the Lake District Peninsulas. Approximately 60% of passengers are travelling for leisure and tourism purposes, often using off-peak services.

The line is essential to growing the local economy and will play a critical role in supporting National Grid's construction of a new 22km tunnel to carry 400KV power cables under Morecambe Bay to connect the proposed Moorside Nuclear Power Station to UK energy consumers. The line also complements the Cumbrian Coast Line in providing an essential rail link between major energy sector freight demand generators in West and South Cumbria and the West Coast Main Line. Key developments that will require use of the Furness Line for inbound and outbound freight movements over the next 10 years include:

- **National Grid** - an estimated £1.3bn investment to connect the electricity generated by proposed energy projects in Cumbria to domestic and business customers
- **NuGen Moorside Nuclear Power Station** - new build nuclear power station which will be capable of supplying up to 3.8GW of electricity providing 7% of the UK energy supply. This investment will underpin the status of west Cumbria as a world leader in the nuclear sector and in so doing drive further investment and exports;
- **Sellafield decommissioning works** - approximately £10bn of investment is anticipated at Sellafield up to 2030 to support ongoing decommissioning;
- **Drigg Low Level Waste Repository (LLWR)** - ongoing construction works at the facility which treats and disposes of low level radioactive waste.

Key Issue facing line

There are a number of important infrastructure constraints which prevent the Furness Line fulfilling its potential for both people and freight movement.

These cover constraints due to limited line speeds, current inability to operate electric trains, and a shortage of diesel rolling stock. In particular:

- Old and unattractive rolling stock. This position has worsened since the line became part of the Northern franchise in April 2016 with some of the more modern rolling stock units formerly used on the Barrow to Manchester service being transferred to support other franchises
- The shortage of rolling stock results in overcrowding and cancellations on a regular occurrence
- Out of date signalling which reduces the lines capacity and prevents its potential for an improved passenger and freight services
- The lack of train running information on Roose and Kents Bank stations leaving passengers uninformed about delays, failures and cancellations
- Unmapped mine workings restricting train speeds between Dalton and Barrow
- Lack of parking facilities at some stations including Arnside, Silverdale and Roose
- Restricted accessibility at stations including Arnside, Silverdale and Ulverston

As well as the infrastructure constraints there are a number of service constraints which are preventing the line fulfilling its potential. Key amongst these has been the decision to withdraw the direct Barrow to Manchester Airport services which now terminate at Manchester Piccadilly, leaving passengers the prospect of changing at Lancaster often onto to already crowded trains. New Northern Connect services, linking Barrow with Manchester Airport eight times per day have been promised for the December 2017 timetable.

Specific Interventions required to address issues

- Complete resignalling of the Furness Line
- Train running information for Roose and Kent Banks stations
- Electrification of the Furness Line to integrate it with the electrified northern rail network centred on Manchester / Manchester Airport
- Investigation of the past mining activity that underlies the line between Dalton and Barrow enabling increased line speed in this area

- Upgrading of facilities at stations: Hub station facilities at Grange station as identified by the Furness Line CRP and Morecambe Bay Partnership; waiting room and shelter facilities at Carnforth station; restoration of shelter facilities for community use at Silverdale station
- Removal of barrow crossings at stations including Silverdale and Ulverston once alternative access routes have been provided – accessible bridges at Silverdale and Arnside may cost approx £700,000 each and lifts at Ulverston may cost £1 million
- Provision of parking facilities at stations including Arnside, Silverdale and Roose to facilitate modal shift from cars to trains

Rationale for interventions

The interventions set out above will improve the capacity, quality and frequency of services for both passengers and freight movement along the Furness Line. The improvements will help support the growth of the local economy and meet the needs of residents, businesses and visitors to the area. Improved facilities at stations and a more frequent stopping pattern will support modal shift to rail from road transport.

The Cumbria Local Enterprise Partnership's Strategic Economic Plan identifies rail issues as underpinning key economic growth objectives for the County. Major employers are located on the Furness Line including GSK and Siemens in Ulverston and BAE Systems in Barrow and the nuclear reprocessing and associated industries around Sellafield including the new Moorside power stations and Drigg are accessed via the line.

As outlined in the Furness Line Study of 2014, improving the capacity of the line through resignalling is vital to deliver a level of service which meets the needs of businesses and residents. Key amongst this is the reinstatement of a direct Barrow to Manchester Airport service. This is essential for major global employers including BAE and GSK and the nuclear industry which are reliant on excellent links to a major airport. Promoting the area for inward business investment would be severely hampered without a direct service to Manchester Airport. The new Northern Connect services will need to call at all the former TPE stations including Barrow, Ulverston, Grange, Arnside and Carnforth.

The electrification of the line is essential to improve service reliability and increased line speeds and most importantly ensure it links into the wider network of lines centring on Manchester / Manchester Airport which are being electrified. Otherwise the scope to develop the economy of the Furness Peninsula with its vitally important role in UK advancing manufacturing will be significantly dissipated.

Timescales for interventions

The following timescales include work to be carried out under the aegis of the new Northern franchise or suggested within Control Period 6 2019-2024:

- Complete resignalling of the Furness line (together with Cumbrian Coast Line) by end 2020 or early introduction of ERTMS
- Train running information for all remaining station by 2017

- The electrification of the Furness line to be investigated and delivered for Control Period 6 2019-24
- Investigation and delivery of line speed improvements between Dalton and Barrow for Control Period 6 2019-2024
- Station accessibility and shelter improvements should be carried out over the 2017-2020 period

Delivery

Delivery of train running information facilities at Roose and Kent Banks will be undertaken by Arriva Rail North in the first year of the new Northern franchise.

Grants are available towards the cost of Hub station development at Grange and waiting room/shelter improvements at Carnforth and Silverdale. These are from the Morecambe Bay Partnership and ACoRP plus new grants becoming available from Arriva Rail North.

Beyond improvements to be delivered under the aegis of the new Northern franchise, a project governance structure will need to be developed to integrate with governance structures already established for rail investment in the North, so that the Furness Line's wider needs are considered as an integral part of Network Rail's investment programme for Control period 6 2019-2024.

Relevant Evidence

- Cumbria Infrastructure Plan, Cumbria LEP, May 2015
- Furness Line Study, The Railway Consultancy Ltd, August 2014

Appendix D – West Coast Mainline

<p>Name of Line</p>
<p>West Coast Mainline</p>
<p>Geography of Line</p>
<p>The line enters the County to the north of Carnforth before travelling north past Shap entering Scotland to the east of Gretna. The line serves three stations in Cumbria, Oxenholme with connections to the Lakes Line, Penrith, and Carlisle which acts as a regional Rail Hub with connections to West Cumbria, Dumfries, Newcastle and Leeds.</p>
<p>Importance of line</p>
<p>The West Coast Mainline is the busiest mixed-traffic railway in Europe and a major TENS (Trans-Europe Network) route linking Scotland and London via the North West of England and West Midlands. This connectivity means the West Coast Mainline provides a vitally important fast and frequent passenger service to and from London and Glasgow and its capacity is critical to the UK.</p> <p>For Cumbria the connectivity the line provides is essential to the continued viability of our economy. In particular it provides essential connections from the heart of London, the Midlands, Cheshire and Lancashire and central Scotland to Cumbria and the range of intensive and export orientated businesses within the County. Approximately 350,000 journeys are made annually by rail between London and Oxenholme / Penrith / Carlisle</p> <p>The line also provides a critical freight facility for the UK economy; a capability that will support the delivery of nationally significant investment within the County and the contribution that our multi-modal ports at Workington (which includes container handling facilities) and Barrow can make to UK economic growth.</p> <p>The connectivity provide by the West Coast Mainline is of critical importance to the economy of Cumbria and it will be vital that its role and importance is enhanced through ongoing investment by the rail industry.</p>
<p>Key Issue facing line</p>
<p>Capacity on the West Coast Mainline in Cumbria is constrained due to the presence of just two tracks to the north of Preston and the mix of services on the route such as fast, 100mph plus passenger services and a variety of mixed-haulage freight services. Data modelling indicates constraints at various points along the route including Carlisle that require substantial infrastructure investment.</p> <p>Passenger numbers are growing significantly while freight capacity issues that exist on the line are also likely to increase due to baseline economic growth, the growth in freight capacity to the South of Crewe following HS2 delivery, and the delivery of major infrastructure projects in West Cumbria.</p>

Without improvements, inadequate capacity will hamper growth.

Moving forward, it is planned that HS2 'classic compatible' services will serve Cumbria and it will be essential that these can be accommodated on the network with suitable connections between HS services and the WCML, necessary line improvements and additional facilities at stations. Beyond this it will be important for Cumbria to be fully integrated with the High Speed Rail network when full connectivity is provided to Scotland.

Linked to the above issues there is a critical requirement to deliver better facilities at Carlisle Station which is currently affected by sub-standard parking and access arrangements and poor quality public realm. These are not in keeping with the prominent interchange on the WCML and which will enjoy future HS2 connectivity. Moreover these improvements are considered to represent a catalyst for further investment and regeneration in Carlisle City Centre.

Specific Interventions required to address issues

- The delivery of more train paths to the north of Preston which can support freight and passenger services, this could be achieved by the provision of four tracks and more and longer passing loops
- The delivery of infrastructure to ensure HS2 rail can join the west coast mainline to the north of Crewe.
- The delivery of the track capacity and connectivity needed for HS2 'classic compatible' inter-city passenger services and inter-regional passenger services needing WCML for sections of route (e.g. Manchester Airport to Edinburgh / Glasgow).
- The delivery of improved facilities at Carlisle, Oxenholme and Penrith Stations in order to accommodate HS2 compatible services and the better and less constrained movement of freight.
- Improvements at Carlisle including a new multi-storey car-park with more spaces and improved vehicular access and associated access, public realm and commercial facilities.

Rationale for interventions

The improvements noted above will bring significant benefit and will directly address the issues identified on the lines in particular:

1. Track capacity shortages, especially for freight, will be addressed
2. They will ensure the WCML will have the capacity to accommodate HS2 'classic compatible' services.
3. Ensure stations in Cumbria will have the services required to support future HS2 connectivity. In particular significant improvements to station facilities, access and parking at Carlisle Station will bring transformative benefit.

The issues identified and solutions promoted are reflected across a number of policy documents including the Cumbria Infrastructure Plan (Cumbria LEP, May 2015), TfN Freight Report (June 2016), High Speed Two: East and West The next steps to Crewe and beyond (HS2 Ltd, November 2015).

In addition to the above, Network Rail, Virgin Trains, Cumbria LEP, Cumbria County Council and Carlisle City Council have been working closely to develop proposals at Carlisle Station and a business case has been under development. Within this are detailed proposals for a station

masterplan that will capture these issues and will be complete by 2019. This will guide investment decisions and ensure the fullest benefits can be derived from development proposals.

The development of this work would also support the wider regeneration of Carlisle City Centre as set out in the Carlisle Southern Gateway Prospectus.

Timescales for interventions

By 2021 the improvements to Carlisle Station should be delivered. All other improvements should be in place by 2024.

Delivery

It is anticipated that improvements will be delivered by Network Rail as part of Control Period 6. With respect to improvements to specific stations Network Rail will need to work with stakeholders (LEP, Train Operators and Council) to ensure improvements bring the fullest range of outcomes.

Relevant Evidence

- Cumbria Infrastructure Plan, Cumbria LEP, May 2015
- High Speed Two: East and West The next steps to Crewe and beyond, HS2 Ltd, November 2015
- Carlisle Southern Gateway Prospectus, AECOM for Cumbria LEP, July 2015
- Inter City West Coast Franchise Consultation response, August 2016

Appendix E – Tyne Valley Line

Name of Line
Tyne Valley Line (Carlisle to Newcastle)
Geography of Line
Located to the far north of England, the Tyne Valley line connects the west with the east linking the two cities of Carlisle and Newcastle via the key service centre of Hexham. 16 stations are serviced along the route of this line.
Importance of line
<p>The Tyne Valley Line which plays an important role for the economy of Northern England, offering Coast to Coast connectivity with essential connectivity from Carlisle and the west of Cumbria with Newcastle and key service centres such as Hexham.</p> <p>Moreover, the line forms a major rail link to the North Pennines AONB, Northumberland National Park and the Hadrian’s Wall World Heritage Site and provides access to a host of cycling and walking attractions.</p> <p>The coast to coast connectivity provided by the line across the far North of England is essential. As well as supporting the movement of workers and visitors between the cities of Carlisle and Newcastle and all the settlements in between, the interchange offered at stations on the East and West Coast Mainlines supports UK interregional passenger movements.</p> <p>The line also supports the east to west movement of diesel trains, an especially important issue in supporting connectivity between the east and west coast mainline, supporting the movement of freight and rail diversions.</p> <p>The movement of freight will be a very important issue on this line with a number of major developments in Cumbria taking a rail led approach to freight. In particular significant growth in minerals freight traffic is anticipated from West Cumbria to North East ports from 2018 in connection with the proposed opening of a new coking coal mine near Whitehaven. In addition to the freight demands, there is also potential for additional passenger traffic with labour travelling from the north east to west Cumbria to access the employment opportunities at Moorside.</p> <p>Carlisle is a significant pool of growth within the north, home to an Enterprise Zone at Kingmoor Park sub-regional employment site. Longer term, the potential of Carlisle will continue to grow with proposals for a 10,000 dwelling urban extension to the South of the City.</p> <p>The Tyne Valley line also runs parallel to Hadrian’s Wall and is therefore important to the tourism sector in the North of England and is well positioned to further support sustainable tourism growth.</p>

Key Issue facing line

This line already plays an important role, however its true potential is not being fulfilled.

Connectivity between Carlisle and Newcastle brings a real opportunity but one which the current line cannot fully exploit due to:

- the lack of electrification which prevents a wider range of services and integration with the northern trans Pennine network centred on Manchester Airport;
- a shortage in line capacity will act as a barrier to increased services and its ability to support future growth;
- poor station facilities for trains and passengers;
- the absence of a station at Gilsland at the heart of Hadrian's Wall; and
- low line speeds which lead to long journey times, reduced attractiveness and use of the line.

Specific Interventions required to address issues

- Electrification of the Line so that it is linked into the electrified northern rail network centred on Manchester/ Manchester Airport
- Line speed upgrades
- Improved capacity for passenger and freight including an extra platform and loop at Haltwhistle
- Improved interchange facilities at intermediate stations
- Improved CIS and ticket purchase options for all stations
- Reopening of Gilsland Station
- Appropriate infrastructure works / maintenance enhancements to support significant growth in minerals freight traffic in the immediate future

Rationale for interventions

The interventions set out above will improve the capacity, quality and frequency of services for both passengers and freight movement along the Tyne Valley Line. The improvements will help support the growth of the local economy and meet the needs of residents, businesses and visitors to the area.

In strategic terms these improvements would enhance services and connectivity enabling direct links between Carlisle and Newcastle and would help to embed the line with the Northern electric services centred on Manchester Airport.

Timescales for interventions

- Improved CIS and ticket purchase options for all stations, by 2017
- Electrification and other line improvements should be delivered by 2024)

Delivery
Delivery should be undertaken by Network Rail as part of Control Period 6. With enhancements undertaken in coordination with service providers.
Relevant Evidence
<ul style="list-style-type: none">• Cumbria Infrastructure Plan, Cumbria Local Enterprise Partnership, May 2016• Gilsland Station Network Rail Feasibility Study (GRIP2), Network Rail, 2016 – DRAFT

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10 August 2016

2018 PERIODIC REVIEW OF NETWORK RAIL - INITIAL CONSULTATION

1. This letter contains the response by DB Cargo (UK) Limited (“DB Cargo”) to the consultation document entitled “2018 periodic review of Network Rail - Initial consultation” issued by the Office of Rail and Road (“ORR”) in May 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 3,300 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

Introduction

4. The UK rail freight industry is a success story of the post-privatisation era, described by the former CEO of the Office of Rail & Road “*as the most transformed sector in the industry*”. It has attracted private sector investment of c £2bn and in fifteen years has grown to account for a market share of surface transport of around 11% (up from 8% at privatisation).
5. Such growth has been achieved by a relentless pursuit of efficiency, striving towards customer satisfaction and strong control of costs.
6. Stability, certainty and confidence in the future is crucial for an industry that depends almost entirely on the private sector (whether in the form of shareholders, customers or debt providers) retaining confidence in the future. PR13 demonstrated that the process itself, as well as proposals and outcomes, can (and did) have immediate and serious impacts on the attitudes and confidence of customers (and potential customers) that directly affects the financial position of the sector.

7. 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.
8. Key to maintaining growth and achieving further modal shift from road will be the ability to match the prices and flexibility/simplicity of road haulage. Maintaining a simple structure with a competitive level of freight charges or other costs/incentives is fundamental in helping to achieve this.
9. In this context, it is important to remember that rail freight is strategically important for GB PLC and provides an essential service to industry. The rail freight industry delivers £1.6bn per annum in benefits to the UK economy and conveys goods worth over £30bn per annum. Examples of this strategic importance include:
 - a. From almost zero, rail has gained 10% market share of export automotive traffic in the last six years.
 - b. Over 40% of London's raw materials (such as aggregates and cement) are delivered by rail and rail plays an equally key role in other major conurbations.
 - c. Over 25% of all the deep sea containers that arrive or depart from the major UK deep sea ports are transported by rail.
10. Rail freight has a vital role to play in tackling transport-related carbon reduction, helping the UK Government to meet its climate change commitments and underpinning a greener economy. Transport currently contributes 21% of carbon emissions of which 7% originate from Lorries. Given that rail freight produces 76% less carbon dioxide than road freight, it is clear that every tonne of cargo carried by rail rather than road makes a positive contribution towards reaching the targets.
11. Rail freight operators generate very low margins – before the recent dramatic decline in coal volumes, the five year rolling average profit margin for rail freight operators was 2.6%. This is vital in assessing the ability of the sector, and its customers, to absorb the impact of increases in access charges.

Rail Freight Market Changes

12. The rail freight sector is undergoing structural change with the well-documented reduction in the movement of coal to power stations which commenced in April 2015 as the result of changes in energy generation policy. This, combined with the simultaneous impact of a globalized steel manufacturing market has impacted seriously on traditional, core rail freight markets.
13. The disruption to cross-channel services caused by the migrants' crisis at Calais in autumn 2015 has also impacted severely on international rail freight services, with traffic levels being only 60% of the pre-crisis levels despite the resumption of unimpeded transits.
14. The above two elements have had a seriously detrimental impact on FOC finances; in addition, coal to power stations was one of the sectors deemed able to afford mark-ups by the ORR during PR13. DB Cargo anticipates that ORR will wish to revisit its PR13 conclusions on market affordability for PR18, but suggests that this need not be a lengthy or complicated process. If concluded early, DB Cargo believes that this would be helpful in assisting the ORR to assess impacts of different possibilities or options on

freight charges.

15. The decline in coal should drive review and simplification of freight-related charges, as there is no longer sufficient justification for coal-specific charges.
16. Other market segments have exhibited strong growth in recent years, and this is forecast to continue with overall growth of c3% pa forecast in the 2014 Freight Market Study until 2043. Growth market segments include Construction (e.g. aggregates and cement), maritime and domestic intermodal and automotive. As well as exacting price and service requirements, these segments have a different operational geography, broadly characterised by an increasing density southward from a line between the Humber and the North West.
17. The structure and level of access charges will be key to determining the ability of the sector to thrive in these growth markets. Customers, and potential customers, already find the rail access and access charging regime complex and difficult to understand; injecting additional complexity or increasing the overall level of charges will likely reinforce preconceptions that already inhibit rail growth.

Wider Regulatory Context

18. The structure and level of access charges are important for freight operating companies such as DB Cargo. Not only are they an important cost element, but they send signals to customers and potential customers as to the wider rail industry's interest in moving freight.
19. As such, the regulatory framework together with effective and appropriate independent regulation is important for the rail freight industry.
20. There is a need for early and holistic impact assessment of potential changes on customers and markets. During PR13, this cumulative impact assessment was often either absent, or not obvious, and individual elements of the regime often seemed to be developed in relative isolation.
21. In almost all rail freight markets, and especially in the key growth markets for the future, customers have choices between rail and other modes, particularly road. Therefore the entire regime, not solely the structure and level of access charges, has to allow, and incentivise, the use of rail to enable it to be competitive with road.
22. The consultation sets out that PR18 needs to be considered in "the wider rail context". This is true, but for rail freight PR18 needs to be considered even more widely.
23. The current structure of variable charges being based upon short-run marginal costs and more fixed costs (including freight fixed costs) being recovered directly by network grant is a close parallel to the situation faced by road freight - where the fixed costs of the national and local road network are funded directly by Government and road hauliers pay only VED and licensing costs. Although not an exact parallel, moving away from the current rail model (e.g. to one deemed to be more "cost reflective" or with geographical variation) risks rail freight being placed at a competitive disadvantage.
24. Historically, the structure and level of access charges have been narrowly focused on rail infrastructure and operations costs, and have not taken the benefits of rail freight (some of which are not within the railway balance sheet) into account. This has been a major weakness which the ORR must address as part of PR18. The ORR is aware of the work being carried out under both the FISG and DfT Rail Freight Strategy workstreams. DB

Cargo supports these, but their purpose is to support modal shift and growth, not to become backstop provisions for regulatory proposals that damage the sector. It is important that PR18 achieves outcomes that support rail freight (and rail freight growth) and thus obviate the need for any such mechanisms.

25. In addition, the ORR must take cognizance of other Government transport policy positions in order to ensure rail is not disadvantaged – for example, road costs remain highly competitive due in part to a long period where fuel duty rates have been frozen. Equally, ORR must take cognizance of macro-economic effects such as low oil prices.
26. During PR13, it seemed to DB Cargo that undue time and effort was spent by ORR on relatively minor (in overall terms) charges and incentives, with larger cost elements receiving scant regulatory attention. It is important a more balanced and holistic approach is taken with respect to PR18, although we understand that key to this will be whether the Government intends to expose franchises to changes.

Context for the Review

27. DB Cargo agrees that the structural and political context of PR18 is challenging and an order of magnitude more fundamental than previous periodic reviews. Whilst each individual element of this has importance, the cumulative impact will be even more considerable and DB Cargo urges ORR to take into account from day one the ability of the industry to handle the scale of change that will be required whilst maintaining safe and effective services for customers.
28. DB Cargo also has concerns that the timetable for PR18 being followed by ORR does not align to the likely policy development timetable of Governments. With ORR's programme appearing to precede likely policy determination, there is a potentially unhelpful risk of misalignment with determination of how to regulate (e.g. the System Operator) potentially preceding development work (e.g. on how the System Operator function will work). DB Cargo strongly believes that consideration of the approach on regulation should follow rather than precede determination of the activity concerned.
29. To the long list of policy issues set out on pages 9 -12 of the consultation document must now be added the implications of Brexit, which has the potential to be amongst the most fundamental.
30. Maintaining a safe and efficient railway delivering for customers has to be the priority for the sector, and it may be necessary for PR18 to reflect this by taking a lighter approach wherever possible, leaving structures, charges and incentives alone unless there are clamant grounds for change. DB Cargo supports the DfT's view that changes should only be made when they lead to a significant better outcome for users.

Industry Structure/operational devolution

31. It is not yet clear how the "Freight and national passenger operators Route" recommended by Shaw and announced by Network Rail will function. DB Cargo is supportive of the concept, but the interrelationship with the main asset-based Routes and the emerging System Operator will be critical. Very few details or proposals have been shared with operators or end-users so far and there is no clarity about any role for external governance in the structure.
32. Until there is greater clarity about the respective roles and relationships between the devolved Routes, Freight and national passenger operators Route and System Operator, there are clear hazards in the ORR proceeding too far in developing proposals for route

or System Operator regulation.

33. Likewise, any establishment of a Northern Route is likely to have fundamental implications for the relationship with affected TOCs; it is important that ORR recognizes that views on route-based regulation will be so influenced by the actual geographic pattern of routes and that proposals for regulation must follow rather than precede determination of structure.
34. Work on incentives must address how geographical Routes will be incentivised with respect to freight; this will not simply be a matter for the Freight and national passenger operators Route. Even if the Freight and national passenger operators Route has responsibility and accountability for freight on-network performance, this can only be delivered by the geographic Routes and the System Operator.
35. Those issues raise questions such as: Will their relationships be contractualised or formalized, or left informal? How transparent will these arrangements be? Equally, how will freight requirements in respect of OM&R and enhancements be managed? How will “line of route” issues – already a weak area when route boundaries are crossed - be managed?

Performance

36. Rail freight operational performance has been good across the whole of CP5, with Network Rail consistently outperforming the regulatory measure (FDM) with the moving annual average now standing at 94.4% against a target of 92.5%. The whole-industry “arrivals to fifteen” measure has improved from 80.1% to 86.6% since the beginning of the control period.
37. Considerations for freight performance for CP6 will therefore be different to those for passenger performance. No fundamental change is needed, but it will be important to maintain high levels of freight network operational performance in line with customer requirements, and given the structural changes associated with route devolution and the development of the System Operator this cannot be taken for granted.
38. Equally, it will be important to ensure that there are no unintended consequences for freight from measures/incentives introduced to try and improve passenger operational performance.
39. In addition, attention needs to be given to other elements of operations – examples include freight train velocity (which is currently poor at less than 25mph on average) which drives asset utilisation and strategic capacity which facilitates growth. In both of these examples, the key role is likely to be that of the System Operator rather than the Virtual Freight Route.

Deep Alliances and Concessions

40. DB Cargo expects that any further “deep alliances” or infrastructure concessions (such as has been mooted for South Wales) will not affect nor make more difficult current or planned freight business for freight operators and end-customers.
41. The nature of access rights, the Network Code and the general regulatory framework give comfort here, but the experience of the Wessex Alliance was that the attitude and approach of the Alliance Partners to third parties was more important. The ORR must factor this into their work on incentives.

Flow of Government Funds

42. The announcement by the UK Government of its intention to channel a greater proportion of industry funding in England and Wales through franchised train operators will, if implemented, have implications for freight, if only because of any changed relationship between Network Rail and franchised TOCs.
43. DfT have been clear that it is not the intention to channel any part of the network grant via freight operators, and we strongly support this. The implication is therefore that the relationship between Government and Network Rail in respect of freight is likely to be different to that in respect of passenger franchises, and it is important the periodic review ensures that freight is not inadvertently disadvantaged as a result of this. Clearly the Freight and national passenger operators Route might play an important role in this, and this reinforces the need for clarity over the role and governance of the Freight and national passenger operators Route.

Focusing the Review – relative priorities

44. DB Cargo supports the proposed set of priorities as set out in the consultation document and the aim for CP6 set out on page 17.
45. The scale of the task for the industry as Network Rail devolves authority to routes whilst in parallel establishing the Freight and national passenger operators Route, System Operator, Technical Authority and Route Services functions should not be underestimated and ORR will need to be flexible in its expectations as this develops and becomes clearer.

Efficiency & Benefit Sharing

46. DB Cargo supports Network Rail continuing to drive understanding and transparency of cost drivers, and believes opportunities exist to help Network Rail understand how freight-related costs can be reduced. Establishing a framework that will allow operators to benefit from such cost reduction will be important; it has been disappointing that it has not been possible to introduce the potential Freight Efficiency Benefit Scheme developed by the RDG Freight Group after all freight operators decided to opt-out of REBS.
47. To support this, it is useful to reflect on what the freight sector has already done to help drive efficiency. Actions include:
 - a. By running longer, heavier trains, more goods is transported using fewer freight trains resulting in increased efficiencies both in terms of resources and network capacity. Between 2001 and 2015 (i.e. before the decline in coal volumes), rail freight volumes increased by 15% but the number of trains reduced by 25%.
 - b. As a result, the payload per train increased by 40% over the same period.
 - c. Notwithstanding this, freight operational performance is at historically very high levels with the Freight Delivery Metric averaging over 94% and “Arrivals to Fifteen” averaging over 86%.
 - d. In the past three years, over 3,50 unused or spare paths have been relinquished by FOCs back to Network Rail either to increase ‘white space’ or for identification

as Strategic Paths.

- e. Continued investment in new equipment, including reliable and more environmentally friendly locomotives and wagons with “track-friendly” suspension.
48. It has not been possible to gauge what effect these efforts and investments have had on Network Rail’s freight cost base. Furthermore the CP5 regulatory settlement increased rather than decreased freight access charges and adjusted the Schedule 8 Performance Regime to the disadvantage (c£15m pa) of FOCS.
49. Unless what the ORR refers to as “the downward pressure on cost” materialises into lower charges or other (hitherto unidentified) advantages, it is hard to see where freight customers or operators are driving any benefit from such efforts. Without this, the incentive for freight operators and customers to continue these efforts will become much reduced and DB Cargo urges ORR to ensure that appropriate incentives, outputs and outcomes are put in place as part of OR18 to encourage continued efforts by FOCs and end-customers.

Outcomes for freight

50. It was very disappointing that in listing the anticipated improved outcomes for freight customers in section 3.27 of the consultation document, there was no reference to lower costs translating into lower charges for freight customers in same way that there was explicit reference to this outcome for passengers.
51. Indeed the reference to ORR “working with governments to ensure the benefits of freight are reflected in the overall costs they face” suggests that ORR is already anticipating further increases in charges and costs for freight operators and customers, which is deeply concerning.
52. DB Cargo suggests that a specific priority for the review should be reductions in costs (and hence charges) for freight users.

Enhancements

53. DB Cargo remains strongly supportive of targeted funds to help deliver significant customer value from smaller-scale improvements to infrastructure backed by wide stakeholder involvement and support. The Strategic Freight Network Fund was one of the major successes of CP4 and is on track to repeat this success in CP5.
54. Clear and formal expression of the outputs expected from enhancements is absolutely critical, as is subsequent measurement as to whether the planned outputs have been achieved. If the output is linked to capacity, more agile and reliable mechanisms to protect capacity for growth are needed. Without this, it will be hard to achieve greater customer or third party contributions to funding.
55. DB Cargo agrees that enhancements cannot sensibly be considered in isolation from OM&R, and that moves for greater operator and stakeholder involvement in Network Rail’s route and central plans for both categories have the potential to bring great benefit. However the workload would be very considerable and FOCs/TOCs are not staffed to do this – equally the skill-sets required are different to those normally found in FOCs/TOCs. ORR therefore needs to be clear that moving from aspiration to reality will be far from straightforward, and some incentives to FOCs/TOCs may be required.

Access Charges & Incentives - Incremental Improvement or Fundamental Review

56. DB Cargo recognizes that access charges and incentives will form discrete elements of PR18. However it is not clear from the consultation document whether ORR sees its approach to charges and incentives as falling into the “incremental improvement” or “fundamental review” categories.
57. The lack of explicit reference to this is capable of an interpretation that the approach to charges and incentives will be one of incremental improvement rather than fundamental review – and this is reinforced by the absence of reference to the charges regime in Table 5.1.
58. However the references in sections 4.28 and 4.29 suggest that the reality is a fundamental review. This perception has been reinforced by ORR’s confirmation at a recent RDG PR18 working group meeting that they intend to explore geographical disaggregation even of the Variable Usage Charge.
59. DB Cargo cannot conceive that any such geographical disaggregation (assuming it is even physically possible) can be interpreted as anything but a “fundamental review”.
60. Unless Governments decide to expose passenger franchisees to risk or changes in regimes in a way that has not yet occurred, the practical impact will be to make the work on access charges and incentives once again a freight and open access passenger review. Given the scale of other changes to be encompassed during this period, DB Cargo would ask ORR to reflect on whether the potential benefits (if any) will justify high prioritization of this work.
61. It seems to DB Cargo that by not defining the approach to access charges and incentives set out in section 4 into one of the categories within section 3, ORR has missed an opportunity for there to be early clarity of their intentions.
62. This is unfortunate and capable of misinterpretation. At the parallel stage in PR13, ORR acknowledged the sensitivity of access charge work for some users and customers and signaled an intention to find ways of giving early certainty. Given what happened later in PR13, DB Cargo suggests that ORR should make clarity of intention on access charges for freight in PR18 an absolute priority.

ORR’s Proposed Approach

Route based regulation

63. Given the lack of detail on how route devolution will work, it is hard to comment at this point as to how regulation should be structured. DB Cargo is involved in the RDG PR18 working groups and supports the comments being made at this stage by RDG. As work is on-going, DB Cargo will submit detailed comments on route based regulation in its response to Working Paper One.
64. In DB Cargo’s view, the Freight and national passenger operators Route will need to be treated in exactly the same way as the other routes to the greatest extent possible, and subject to the same processes and governance. The relationship between the Freight and national passenger operators Route and the System Operator might need to be different to that of the other routes/System Operator, but DB Cargo does not see the Freight and national passenger operators Route as a subset of the System Operator.

65. The position of the Freight and national passenger operators Route between the routes and the freight operators/customers means that a different, potentially more complex, series of incentives will be needed to mimic / replicate the incentives between TOCs/routes put in place elsewhere. It seems to DB Cargo that the relationships between a FOC and the Freight and national passenger operators Route and the Freight and national passenger operators Route / route will need to be formalized.
66. As already set out, FOCs or TOCs being involved in the detail of route business plans and submissions, let alone scrutiny, will lead to considerable additional workload/cost and require different skills sets, whether managed directly or via a Freight and national passenger operators Route as intermediary. DB Cargo does not find ORR's contention (that the additional work will not be burdensome) compelling and in fact believes the opposite to be true.
67. Route-based settlements will need to be reconciled with the needs of multi-route customers and operators to ensure that outputs remain meaningful and that multi-route operators and customers are not disadvantaged.
68. It is hard to see how any move to route based outputs/targets/regulation will not lead ineluctably to route level price controls; it is not clear to DB Cargo how, in this circumstance, ORR propose to maintain simple, national charging regimes for national activities such as freight and early further clarification on this is essential

Improving System Operation

69. System operation is equally "work in progress" and it is equally hard to comment in detail at this point as to how regulation should be structured. DB Cargo is also involved in the RDG PR18 working group on system operation and again supports the comments being made at this stage by RDG. As work is on-going, DB Cargo will submit detailed comments on improving system operation in its response to Working Papers 2 and 3.
70. System operation is not merely a "Network Rail" function and it is not yet clear how the roles performed by (inter alia) Government and ORR will be covered. Equally, if HS1 (and other infrastructure managers) will be covered by the System Operator, then ORR ought to review whether the separate periodic review of HS1 (involving very different approaches to the Network Rail periodic review) remains appropriate.
71. It seems clear that the System Operator will have to be treated as an equivalent to the Routes with appropriate specification, funding mechanisms, outputs and incentives all needing to be put in place.
72. Developing systems/tools/measures to allow cross-route services to be planned/improved/developed far more easily than today must be a key priority for the System Operator.
73. DB Cargo is opposed to the suggestion in section 3.10 of Working Paper 3 of an additional levy on Operators to fund the System Operator. System operation is a core element of infrastructure management for which Network Rail is already funded.

Outputs Framework

74. Outputs too are "work in progress" and DB Cargo is also involved in the RDG PR18 working groups on outputs. Again we support the comments being made at this stage by the RDG and we will submit detailed comments on outputs in our response to Working

Paper 4.

75. DB Cargo remains supportive of measures that are output/outcome based rather than input focused – this offers the best way of ensuring alignment with customer interests. To be effective, outputs need to be clear, simple and capable of measurement without undue management time, effort or expense.
76. DB Cargo agrees that the Freight Delivery Metric has been successful and that fundamental reconsideration of a freight performance metric is not necessary. Having said that, FDM will need consideration as to how it is best expressed in a route/Virtual Freight route/System Operator world to ensure all parties are appropriately measured and incentivized.
77. DB Cargo suggests that one or more regulatory measures will also be needed for system operation – perhaps measuring average velocity.
78. DB Cargo is supportive of the route scorecard process and a similar scorecard will need establishing for the Freight and national passenger operators Route.

Costs and Incentives

79. As already stated, DB Cargo recognizes that detailed consideration of access charges and incentives will form a separate, discrete element of PR18 and that ORR currently anticipates a consultation on charges late in 2016.
80. However even at this stage it would be helpful if ORR's underlying intention with respect to charges and incentives was clearer. DB Cargo is very concerned at some of the emerging proposals from ORR – for example to pursue geographical disaggregation of charges, including the variable usage charge, coupled with some form of scarcity charge to ensure compliance.
81. DB Cargo is strongly opposed to this. The nature of infrastructure costs are such that such precise disaggregation is simply not the reality – no infrastructure manager in DB Cargo's knowledge accounts for manpower or materials in a way that would assist this.
82. In addition, given the lack of uniform capability and capacity across the network, there is rarely any realistic choice over routing or timing of freight trains as they operate when customers require them to. Therefore, such an academic exercise would lack any incentive property whatsoever as operators and customers have no real choice.
83. Given the need for an accompanying scarcity charge (which ORR had hitherto proposed not to take forward for CP6), it is inevitable that any such proposal would increase freight access charges with resulting negative outcomes with no real benefits. Incentives are only effective when they can be acted upon otherwise they very quickly become penalties or taxes.
84. Consequently, whilst accepting that work on costs does not automatically lead on to changes to charges, the absence of any incentive properties from the proposal suggests that translation into charges can be the only potential reason for pursuing such an option.
85. DB Cargo is not clear where the distinction lies between the ORR "*exploring charges (that) might better reflect infrastructure costs and how they vary over time and by use*" with "*we (are) not proposing to take forward options that directly link charges to the*

relative value of capacity". Clarification in this respect would be welcome.

86. DB Cargo was also somewhat surprised at the recent advice at an RDG working group that ORR was again reopening the basis of calculating variable costs based on work by the University of Leeds; given that the underlying basis of this work was considered and rejected as part of both PR08 and PR13, this was unwelcome.
87. Given the sheer scale of other changes envisaged by route devolution and system operation, DB Cargo would strongly support limiting the work on charges to the absolute minimum to allow scarce resource to focus on other priorities. It is not clear to DB Cargo why ORR is undertaking any significant work on charges given the thoroughness of the PR13 analysis.
88. DB Cargo would ask ORR to review its work plan in this area, and to ensure the DfT and Transport Scotland strategic studies on rail freight are fully taken into account.

Enhancements

89. DB Cargo is strongly supportive of the desire to improve the enhancement specification and management processes for CP6.
90. There are relatively few freight-specific enhancement projects, with freight schemes more often forming part of a larger route upgrade or electrification project. This approach usually achieves the best value for money and any new processes should allow this to continue. However freight is sometimes disregarded during value engineering or respecification processes, and any new regime should clearly set out how freight will be involved at each stage.
91. As previously stated, DB Cargo remains strongly supportive of targeted funds to help deliver significant customer value from smaller-scale improvements to infrastructure backed by wide stakeholder involvement and support. DB Cargo would support the Strategic Freight Network Fund being continued in CP6.
92. There is general recognition that given the national nature of freight operations, the freight locomotive fleet needs early fitment with ETCS/ERTMS equipment to help the Digital Railway programme irrespective of the infrastructure roll-out plan. Assuming Government is convinced of the business case, suitable funding provision needs to be made to allow freight locomotive fitment to proceed across CP6.

High Level Framework

93. DB Cargo has concerns that ORR is underestimating the scale of the task implicit in the potential framework. Drawing the framework out into a more detailed plan might help to bring this out, using the differences in Table 5.1 as a starting point.
94. It remains a concern that the consultation was virtually silent on the Freight and national passenger operators Route and its potential role and relationships.
95. For freight, the complexities of having to think through the relationships and links between freight operators, TOCS, Freight and national passenger operators Route, routes and System Operator at the same time as fundamental market challenges means that there will be little or no manpower or intellectual firepower to handle fundamental reviews of charges or other elements.

Process and Engagement

96. DB Cargo welcomes the engagement to date and the willingness of the ORR to involve stakeholders earlier in their deliberations, for example through the Working Papers and via the RDG Working Groups.
97. As articulated earlier, DB Cargo has some concerns that the ORR's process risks misalignment with Governments' policy development and this must be avoided if at all possible – even if that means ORR adopting a more flexible approach to their timetable.
98. A key lesson from PR13 was the need for holistic consideration of impacts – both of individual options/proposals but also the cumulative effect of different elements. DB Cargo would welcome understanding how ORR intends to address this as part of PR18.
99. If you would like clarification or amplification of any of the points in this letter, please contact me.

Nigel Jones
Strategic Adviser

Response to ORR’s initial consultation on the 2018 periodic review of Network Rail (PR18)

This pro-forma is available to those that wish to use it to respond to our consultation. Other forms of response (e.g. letter format) are equally welcome.

Please send your response to pr18@orr.gsi.gov.uk by **10 August 2016**.

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Chapter 2: Context for the review

We invite stakeholders to comment on whether they agree with our view of the context for PR18 or whether they consider there are additional significant points. (If the latter, please explain how these might affect the review).

- Devolution to routes seems like a good idea, although I would be concerned about the costs of this. Will route teams be moved back out to the regions? How will this work for operators who move between routes?

Chapter 3: Focusing the review where it can have most impact for passengers and freight customers

We welcome views on the proposed relative priorities for the review, as well as any other areas that should be prioritised (in which case, we would particularly value views on what should not be prioritised as a consequence).

Chapter 4: Our proposed approach to the review

We would like to know if you agree with the overall approach that we have set out for the review.

We would also welcome additional suggestions and proposals for how we might adapt our regulation to the current context. It would be helpful if you could arrange your comments around the headings in the chapter (set out below) where these are relevant to your response.

Route-level regulation

System operation

Outputs & monitoring

Charges & incentives

Approaches for enhancements

ERTMS and related technology

Chapter 5: Developing the high-level framework for the review

We welcome views on how our high-level approach could be implemented and on the potential framework set out in chapter 5. As part of this, we invite thoughts on what it is practicable to achieve in PR18 and in CP6, and what might be more realistic to achieve in the subsequent periodic review.¹

We would also welcome any further suggestions and ideas on how we might improve how we regulate Network Rail.

- 5.26 talks about reallocation of funding between routes for unexpected costs. Will each route have a budget for this or will one route lose capital funding for a project to cover a significant unforeseen event? Given that significant events, particularly ones which are weather related seem to be happening more frequently, would it not be prudent to have a specific budget for this?
- 5.32 talks about the possibility of schedule 8 needing to change. This conflicts what is said in 4.32 and 5.21 about there being no plans to change and not make changes to Track Access Agreements outside of periodic reviews.

¹ You may also wish to read and comment separately on the working papers that we will publish following this consultation document.

- 5.35 is it envisaged that routes can set their own performance? What is acceptable on one part of your journey could become unacceptable on another as your cross routes. Or would this be operator specific?

Chapter 6: Process and engagement

We would be grateful for comments on the proposed phases of the review, including any views on the [draft timetable](#) and our proposed approach to engagement.

We also invite high-level views on the process for customer engagement by Network Rail's routes and the system operator to inform their business plans, in terms of what is achievable for this review.

We would also welcome any views on how Network Rail and train operators would like to engage and be involved in the implementation process for PR18 and any thoughts on the process relating to Network Rail's right to object to our determination.

Any other points that you would like to make

Thank you for taking the time to respond.



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27 July 2016

By e-mail

Response to the PR18 Initial Consultation Document

Thank you for the opportunity to respond to the Periodic Review 2018 (PR18) Initial Consultation. PR18 provides a key opportunity to continue to improve how our railways serve passengers and freight shippers, and it is important the ORR ambitiously takes the chance to improve outcomes for rail users. This response sets out some particular areas of opportunity and initial thinking on our future engagement.

Introduction

Britain's railways are a key part of our national transport infrastructure. With new trains, improved infrastructure and more services, passenger numbers have grown strongly, doubling in the 20 years since privatisation, and freight has grown by over a third.

However, with this success, there have come challenges - train service reliability is still not good enough, and the increasing demand for rail services means some parts of the network are increasingly crowded. Looking ahead, the network needs to maximise benefits from the Government's programme of major investment, including in Crossrail, the Thameslink Programme, new trains and HS2. The rail industry also needs to redouble its efforts to put users at the heart of its work.

A well conducted process will provide the regulatory framework required to improve the railway for its users - passengers and freight shippers - and to enable it to support our economy. It will help maximise the benefits from the Government's investments, not least in helping to ensure HS2 is fully integrated with the existing network. It will also help ensure users benefit from continual improvements to their services over the coming period, not least in terms of performance, reliability and resilience, where the railway has more to do. Furthermore, it will be critical to improving efficiency, creating the right incentives on all parties to facilitate greater value for money.

PR18 is also an important contributor to supporting the Government's approach to rail reform. The recent Shaw Report into the future shape and financing of Network Rail (NR) made a number of recommendations to create a NR that is more effective, efficient and responsive to the needs of its users. While NR is already addressing many of the issues raised by Shaw, PR18 can further support and enhance this process, providing further opportunities to make NR more efficient and responsive to users. This includes new arrangements for specifying and delivering major enhancements; a substantial process of devolution within NR to put decision makers closer to customers and a whole-industry focus on delivering the outcomes that matter for users. At the same time, the railway's safety record must be preserved and greater emphasis placed on innovation, modernising technology and providing more choices for passengers.

Achieving all this will require ambition and concerted effort from the ORR, from NR, from train operators, the supply chain and Government. We therefore look forward to engaging fully in the PR18 process.

Objectives for PR18, the High Level Output specification and the Statement of Funds Available

Objectives

We strongly support the ORR's overall objective for PR18, and particularly the focus on user interests. The Government is at an early stage of the process which will lead to the publication of the High Level Output Specification (HLOS) and Statement of Funds Available (SoFA) during 2017.

Our objectives for PR18 naturally may develop as we continue our engagement with you and the full range of interested stakeholders. Our initial view, which I think we substantially share with the ORR, is the objectives are:

- to ensure the needs of **users of the railway are placed at the heart of the railway**. This includes through the implementation of the key recommendations of the Shaw Report, including a substantial devolution of power and responsibility to NR's routes (including maximum appropriate financial accountability), supported by independent regulation. In particular, we support the principles underlying a move towards a route-based regulatory regime which we consider could substantially increase the ability of ORR to hold NR to account, e.g. allowing route-level benchmarking to inform distinct outputs and efficiency targets, identifying best practice across the network and using it to hold routes to account for performance.
- to **preserve and enhance the improvements that have been made in the safety of the railway**, for passengers and the workforce, ensuring that we continue to have one of the safest railways in the world;
- to ensure the railway's **performance**, including in areas where it is not currently delivering what users want, meets the reasonable expectations of its users;
- to ensure a funding environment that provides sufficient **certainty** to allow investors to plan their decision making, with a particular focus on giving the supply chain confidence to invest in people, innovation, facilities and equipment, while

also providing **strong, sustainable efficiency incentives** for NR and the wider industry;

- to provide funders with **sufficient flexibility in respect of the enhancements programme** so they can ensure their investments remain aligned to their priorities. This means the regulatory process should support a robust, credible infrastructure planning process which delivers what users need, aligned with the franchising timetable. As the Bowe review recommended, this means some substantial improvements - a more flexible process, where the Government only commits to enhancements at the point when funds and supply chain capability are available to deliver them and they make strategic sense; and,
- to improve the **environmental sustainability** of the railway so it makes a full contribution to the Government's environmental agenda, is resilient to climate change and extreme weather conditions, and maintains its position as a sustainable form of transport by responding to the rapid environmental improvements being made by other modes.

How this may impact on the HLOS and SOFA?

This means the next HLOS and SoFA will look significantly different to those which were published in 2012. PR18 is likely to see from DfT a much higher-level HLOS, and accompanying SoFA, focussed on:

- the “steady state” costs of the railway (operations, maintenance and renewals);
- meeting the Government's commitments to the projects in the Enhancements Delivery Plan;
- delivering major projects (such as Crossrail); and
- projects that are deemed critical to prevent serious deterioration disruption to passenger or freight services.

This will enable greater flexibility to take forward and fund additional new enhancements on a rolling basis, as and when they reach sufficient design maturity, enable better alignment with franchising and facilitate a broader range of funding models. The current intention is to distinguish separately proposals that are considered by Ministers to be worth developing, from those that have been developed to a stage worth designing in detail, and from those that are worth delivering. There will then a further test as to whether those worth delivering are also capable of being delivered and are timetabled to have regard to other factors such as the state of the supply chain and the impact of disruption on the network. We look forward to working with the ORR in the coming months to further refine this process, including how it will impact on the determination.

Additionally, there are also likely to be changes to how DfT specifies outputs as part of the PR18 process. At this stage, we are attracted by a model of specification which emphasises broad outcomes for users (e.g. increased capacity or faster journey times) rather than inputs (e.g. specific projects). We are also considering whether it might be

appropriate to specify performance trajectories rather than specific targets, particularly in light of the progress on route-based devolution within NR. We also want to see a move towards performance metrics which better reflect the needs and perceptions of passengers, consistent with the preferred approach that is emerging from the work of the National Task Force.

As you will appreciate, we are also considering other issues that will impact on PR18. These include the overall availability of funding for Control Period 6, against the backdrop of a continued need for restraint in public spending. It will also be important to fully reflect the changes to the manner in which Government provides funding to the industry following the reclassification of NR to the public sector.

The ORR's proposed PR18 process

We have reviewed the proposed process for conducting the PR18 process outlined in the Initial Consultation. We particularly welcome the open process the ORR is taking, including the publication of working papers and stakeholder workshops to inform its thinking. We also welcome the ORR's ambitious agenda of taking full advantage of a more devolved NR to significantly enhance the regulatory framework. We will be actively engaging throughout these processes to support this important and ambitious agenda.

We fully recognise the time required to complete a robust carefully considered review, and also consider that it remains important that the process preserves sufficient flexibility in the timetables, including around the HLOS and SOFA, to ensure that the review can be conducted in an effective manner. This is likely to involve more flexible and iterative approaches than may have been the case in the past.

Areas for further focus

There are a number of additional strategic or policy areas which would benefit from a particular focus as PR18 develops.

- First, it would be helpful if issues relating to **HS2** could be given greater prominence within future review material. Most of the construction programme for phase 1 of HS2 will take place during CP6, and this is likely to have significant implications across the duration of CP6. Furthermore, significant development and planning work for the integration of future HS2 services with the rest of the rail network will take place during CP6 and beyond.
- Second, and as suggested above, a greater emphasis on potential options for private investment in **rail infrastructure**, in line with the recommendation in the Shaw Report, so that the regulatory framework supports third party investment to add real value alongside continuing Government investment.
- Third, a greater focus on **encouraging innovation** across the rail sector. This is a vital counter-point to work on NR's efficiency. If users are to see significant advances in reducing the costs of the railway and encouraging NR's route managers to take a more flexible approach to tackling problems, then innovation has a key role to play. Every possible step needs to be taken to ensure the regulatory framework supports this.

- Fourth, **the importance of closely working with stakeholders who can provide a robust view of user preferences and behaviour**. In particular, the passenger perspective including that provided by Transport Focus, with whom you already work closely, will be important in the PR18 process.
- Fifth, the PR18 process and outcome should **support investment in skills**. The rail industry is facing a significant and growing skills gap as older workers retire and new technology – such as digital signalling – is introduced. This poses a risk to the cost-effective delivery of rail enhancement schemes and the continued operation of the network. Rail will increasingly be competing for scarce resources with other industry sectors so needs effective mechanisms for attracting, retaining and developing staff.
- Sixth, DfT is already discussing with ORR particular issues with regard to **station licensing and access charging**, on which we welcome ORR's continued engagement as part of the PR18 process.
- Finally, while fully recognising the particular circumstances of rail, it is important to build on the lessons learned in other utility sectors, to ensure **effective route based regulation and an effective system operator**. We welcome ORR's work on the system operator and route-based regulation and we look forward to working with you to further develop the approach in this area, including through the exploration of the potential for route-based charging.

Additionally, it is crucial to focus on steps that can reasonably be taken to improve the capacity and performance of the existing network, rather than unduly focus on steps which require its expansion. This is particularly important to minimise disruption to passengers, whilst maximising value for money.

Charges, incentives and open access

The work on charges and financial incentives is key. We recognise this is being taken forward in a parallel process to the initial PR18 consultation document¹. A regime which provides strong incentives for NR and operators to work together to reduce costs and drive improvements for passengers will be critical. This is why we particularly look forward to working with the ORR and industry on potential means to significantly enhance this collaboration, creating stronger, sustainable commercial incentives for efficiency. However, changes should only be made where they lead to a significant better outcome for users. We would be concerned at changes which increased complexity, and potentially costs, without clear evidence these would lead to improvements for users and taxpayers.

Furthermore, for incentives to work effectively, there will need to be clarity and transparency about where costs are incurred and what different sources of funding are paying for. This should support better decision-making across Government and the rail industry. We would encourage the ORR to fully consider the opportunities create by route

¹ The DfT's initial letter to the ORR on charges and incentives can be found at: http://orr.gov.uk/_data/assets/pdf_file/0008/19853/DfTs-letter-on-improving-incentives-for-better-outcomes.pdf

based regulation - while we recognise that route based charges pose certain challenges, we support full consideration being given to the issue during the PR18 process.

As you know, we are also exploring how a levy could be introduced so that open access operators make a fair contribution to unprofitable, but socially and economically important services - as franchises do. We want to ensure any such levy enables more services for passengers while protecting taxpayers, avoids creating perverse incentives, and can be effectively administered. We currently plan to consult on the levy later in 2016, aiming to coordinate the timing of our work with your consultation on changes to charging. We intend the levy to be payable in relation to all open access applications granted from Budget 2016.

Conclusion

We welcome the ORR's ambitious agenda for PR18, which places users at the heart of the approach and supports a more devolved, accountable NR. We recognise, however, that there is a lot to be done to reach a determination that produces real benefits for passengers and other users. We look forward to working with you to achieve this.

Richard Carter
Director Rail Strategy and Security

Response to ORR’s initial consultation on the 2018 periodic review of Network Rail (PR18)

This pro-forma is available to those that wish to use it to respond to our consultation. Other forms of response (e.g. letter format) are equally welcome.

Please send your response to pr18@orr.gsi.gov.uk by **10 August 2016**.

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*This information will not be published on our website.

Chapter 2: Context for the review

We invite stakeholders to comment on whether they agree with our view of the context for PR18 or whether they consider there are additional significant points. (If the latter, please explain how these might affect the review).

We broadly agree with the context for the review as set out by ORR but wish to make the following additional points:

In the preamble you suggest you (ORR) will “explore how changes to track access charges might support industry-wide cost reduction”. I would challenge in your role as the Regulator of Roads and Rail you should also consider how your actions may encourage an increased modal shift from road to rail, delivering benefits across the country by using cleaner more efficient railway infrastructure rather than polluting road transport. By establishing a model that demonstrates how this can be achieved, striking the right balance between the two transport modes, you may conclude the better value for UK Plc is to divert some road funding to improve rail capacity rather than road capacity.

2.6 The suggested operational flexibility demanded by freight customers is not strictly true. In fact we and many other freight customers want certainty, therefore we would prefer a clear, efficient long term timetabled plan agreed with Network Rail. Intermodal certainly works in this way and it is our preferred solution for our on-going fuel supplies, both coal and biomass. I would suggest it is primarily the network maintenance and construction industry traffic that increasingly wants a go anywhere/anytime operation.

What ORR has to consider is; What is the true cost of freight traffic moving on our roads? Increased congestion, infrastructure damage and declining air quality. Is that better than taking the initiative to find an appropriate model to facilitate modal shift from road to rail? This model should then feed in to the overall track access charging review for CP18. The model needs to identify a method of planning, working to deliver and charging for the go anywhere/anytime access for some freight whilst also delivering against the same parameters for those other freight customers who want/need to operate on timetabled paths running to their full capability

across the network, in the same way as a passenger train.

If we can achieve this more efficient mode of operation, (one of your other stated aims) on the Network this should deliver a railway that balances the interests of investors, customers, taxpayers and industry. It will also allow you to better evaluate the true capacity as opposed to capacity impaired by un-necessarily slow moving stopping and restarting freight trains.

2.7 Drax notes the difference in trend in FDM and PPM and wishes the ORR to note that in terms of access to paths on congested parts of the railway, freight should be allowed to run and not looked at as being a source of poor performance issues for passenger operators. This should be reflected in train planning practices and counter any tendency to take a cautious approach to planning of freight services.

2.17 We have supported this line of thinking for several years now. However that has not always been reflected in investments made by Network Rail. Southampton and London Gateway have had significant sums spent on gauge clearance and track enhancements yet only a small proportion of the UK intermodal traffic comes via these ports, whilst >50% of intermodal traffic comes via Felixstowe. A small proportion of route enhancement spend has gone into bringing the Felixstowe branch up to the required standard for the traffic flows. This consequently limits rail from Felixstowe resulting in greater road use along key arterial routes such as the A12 and A14 corridors.

Moreover when making judgements about targeting limited capital spending to where it will have greater impact, it is important to ensure that the value of freight is assessed properly. As I have already said the thought that journey time does not matter to freight is wrong. Increasingly the viability of freight operations and operators relies on efficient pathing and higher average velocities. In short, a review of the relative value of a minute saved for passenger with the consequential impact of hours (at times) on a freight service should be undertaken as part of the review. This work would feed in to regulation of the System Operator function, the train planning rules and practices.

2.22 Drax accepts that the reclassification of Network Rail (NR) will have an impact on NR's finances but would resist any suggestion that the impact of this should be passed onto passenger and freight customers. This seems to be a commercial decision to take value now rather than a balanced business plan recognising the value of those assets to the wider Network Rail business long term. Supplementing that income stream with increased access charge revenue, not by increasing the cost of track access but by increasing the use of the network must make sense? We have seen this process of selling off network assets before. Network Rail have only recently completed a buy back of large parts of the property portfolio following privatisation of the railways. If we sell this and other assets off again for a short term gain, when will Network Rail find itself having to pay a significant premium to buy back many of these sites/services in support of network expansion/development plans?

Box 2.1 The proposal for a Freight Route in the Shaw Report has, we understand, been adopted by Network Rail (Virtual Freight Route) to the benefit of freight and national operators yet does not get mentioned further in the Consultation paper. Drax traffic could potentially be captured within a devolved route in Northern England (TfN and Northern Powerhouse) yet would be overseen by a National Virtual Freight Route. The combination of these major changes does create some uncertainty for us as a customer and also we believe for Network Rail as to how they best operate our business, how this is charged and how the responsible route operations secure the value? In this case would any transfer prices and arrangements be regulated? It is essential ORR gives clarity on these developments as soon as possible in this review process.

Chapter 3: Focusing the review where it can have most impact for passengers and freight customers

We welcome views on the proposed relative priorities for the review, as well as any other areas that should be prioritised (in which case, we would particularly value views on what should not be prioritised as a consequence).

We support ORRs proposed prioritisation. In particular, 'more efficient' and 'better used'.

With regard to the latter, we wish to draw attention to work we have been progressing with our operators and Network Rail to secure more efficient freight paths to Drax. We believe that letting freight run in faster, more efficient paths, can support ORR's priority of a Better Used network. The result is freight occupying less space and time, whilst avoiding the potential performance issues which come with recessing freight in loops and sidings in order to save a couple of minutes on lightly used passenger services. This requires a re-evaluation of the worth of a minute of journey time to passengers with the consequential costs to freight. We believe that there are cases where such a review may show that delaying a passenger service by 3 minutes, allows the creation of a new freight path, or saves 45 minutes waiting time on an existing freight path.

The System Operation function is key to much of this; the train planning rules and principles should be included in a 'better used' review. Efforts are needed to build the optimum timetable for best use of the network rather than the traditional approach of planning the passenger service first and fitting freight around it. A further refinement that is needed is to give preference to freight paths which run most, rather than those which appeared on the graph first.

We are concerned that NR does not have the technological and human resources to optimise the train plan and therefore deliver the 'better used' objective.

3.9 The statement in this section "This could support greater alignment between network enhancement and franchising decisions" seems to lose the important relationship to freight. Much of the enhancements needed across the country are in support of freight, opening up new manufacturing and logistics hubs. If we drive everything to the benefit of passenger franchise we are in danger of pressing rail freight out of existence.

3.16 We note the ORR comments that most stakeholders think that the possessions and performance regimes are fit for purpose. Network availability is however very important to freight as a large proportion of possessions are planned for night time. This is the very time when freight has an opportunity to run in faster paths and is needed to support our 24 hour operation. There should be a regime to check that regular possessions (such as 1 in 6 weeks on nights) are needed, not excessively long and used efficiently.

3.23: In this section you state the following: *To deliver this aim in line with our proposed focus for the review, we have developed the following objectives:*

to establish a framework that encourages Network Rail to:-

- *ensure the ongoing safety of the network; -*
- *improve the efficiency of operating, maintaining, renewing and enhancing each of the routes in CP6 and beyond; and –*
- *improve its understanding of the capacity and performance of the network.*

to support government funders and operators to make better informed decisions about expansion and use of the network

Nowhere does it suggest as an objective the running of a financially viable or even profitable Network Rail as an objective. We applaud the focus on safety and have supported Network Rail in numerous visits and presentations here at Drax to demonstrate how we manage a safe working culture in our business. What we also discussed in these forums was the need to do this whilst also being profitable for our shareholders. I have discussed this with planners at Network Rail, Milton Keynes and have received the shocking answer, to me anyway, that their job is to run a safe railway, not a profitable one. This suggests a mind-set that does not recognise the need to support the, “improving the efficiency of operating”, “better used” statements in the review. It suggests they as planners will continue to build in redundancy on the network to ensure it is safe rather than efficient and potentially profitable.

3.24-27 We welcome the ORR emphasis on ensuring decisions are focussed on the interests of end users and delivering improved outcomes for freight customers. We believe that improved timetabling and system management is essential to this and furthermore, supports government objectives on climate change. For example, a train schedule which requires 7 hours for a journey from Liverpool to Drax is bad for the freight operator, bad for Drax and bad for the environment. In this regard, we would point out that the environmental benefits of freight are seen not only in reduced road congestion, but also in reduced CO2 and particulate emissions. Inefficient journey times for freight on rail offset the environmental benefits that could be gained from modal shift or worse add to the problem.

We are aware of perverse incentives in the allocation of passenger revenue which can incentivise operators to run services to destinations purely to secure a share of revenue rather than to meet customer demand. Such services add to track congestion and block freight capacity. Similarly trains turning back in ‘unnatural’ locations occupy track time and block freight. These and any similar practices need to be challenged and removed if the industry is to deliver a ‘better used’ and ‘more efficient’ network.

Chapter 4: Our proposed approach to the review

We would like to know if you agree with the overall approach that we have set out for the review.

We would also welcome additional suggestions and proposals for how we might adapt our regulation to the current context. It would be helpful if you could arrange your comments around the headings in the chapter (set out below) where these are relevant to your response.

4.3 A focus on regulating at a route-level

We support Route based scrutiny, however this increased regulation starts with “the what”. What are you regulating? If an operator runs faster or slower than another what can the Route do about that? If the system operator plans a stopping train ahead of another train what can the Route do about that? If DfT decide to increase a franchise or increase open access operators further what can the Route do about that?

As well as regulating the Routes ORR need to support the Routes with the appropriate tools to be able to influence the traffic running across the section. I believe the Routes would welcome this initiative. As with many businesses the people closest to the operation are the ones who know how to get the most out of it, they are also the ones people generally listen to the least.

4.7 We support these new initiatives. I would ask why at 4.8 you state it may not be practicable

to apply all of these techniques fully. These are things that should be easy to establish and deploy.

4.14/4.15 We support scrutiny of the system operation function as better use of the network begins with the Train Plan and how capacity is allocated. We think velocity for freight should become a key performance metric for the system operator. This will support ORR's 'efficiency' and 'better use' objectives.

4.18 As we have stated earlier in this response we are concerned Network Rail do not have the technological and/or human resources to deliver the needed change from the System Operator. ORR involvement in how you can support initiatives to improve Network Rail analytical and timetabling capability will be of high importance and should be a priority in this CP period.

Outputs & monitoring

We note the intention to include 'local stakeholders' in setting outputs and would welcome the opportunity to be included in this.

4.28 How this could work

We are concerned by some of the suggestions in this section of the document.

Industry needs stability particularly given the general level of uncertainty in the economy and in our case future coal fired generation. Freight customers should not have to go through another protracted highly uncertain, bottom up exercise. We would suggest that track access charges for freight need to take a longer term view rather than be subject to periodic review. We also urge ORR not to overlook the significant environmental benefits of rail freight (estimated at £1.6billion pa by the RDG).

Biomass was investigated last time and the environmental benefit recognised – not taxed – Drax has invested heavily in infrastructure and rolling stock to support its renewable energy technology generation. We need certainty as I am sure many other industrial users of the railways do.

Understanding the costs of operating a specific route is a valuable piece of information and should form one of the scorecard measures for each route.

Route based charging is a real concern. This should be managed via internal financial process rather than charging on a route by route level which may unfairly disadvantage a user on one route over another or create differential charging for operators like us who operate over multiple routes today.

4.30 We do not believe that the ORR has the time in the run up to this next CP period to carry out a thorough review of the train operator costs and charges specific to the operator nor how these costs should be allocated in future. We would urge ORR to avoid the lengthy process seen last time which resulted in delays to important investment and contracting decisions.

We would urge ORR to try to simplify the charging structure and issue an early assurance to freight customers that CP6 charges will be capped at present levels.

Approaches for enhancements

We are concerned that freight enhancements will not receive the appropriate level of priority following the devolution of responsibility to the Routes and their inevitable focus on the dominant passenger franchise. For example, the Trans-Pennine upgrade needs to include provision for enhanced freight capability as well as improvement to the franchised passenger services.

ERTMS and related technology

No view

Chapter 5: Developing the high-level framework for the review

We welcome views on how our high-level approach could be implemented and on the potential framework set out in chapter 5. As part of this, we invite thoughts on what it is practicable to achieve in PR18 and in CP6, and what might be more realistic to achieve in the subsequent periodic review.¹

We would also welcome any further suggestions and ideas on how we might improve how we regulate Network Rail.

As already stated we have concerns about the Route level charging approach.

5.11 We note the intention to use the single till approach. We are not in favour of disposals anyway and would be concerned about revenue from asset disposal being used to the advantage of that Route rather than spread across the whole organisation. Some regions may have more property than others.

5.31 implies a route charge structure in support of contractual incentives.

Chapter 6: Process and engagement

We would be grateful for comments on the proposed phases of the review, including any views on the [draft timetable](#) and our proposed approach to engagement.

We also invite high-level views on the process for customer engagement by Network Rail's routes and the system operator to inform their business plans, in terms of what is achievable for this review.

We would also welcome any views on how Network Rail and train operators would like to engage and be involved in the implementation process for PR18 and any thoughts on the process relating to Network Rail's right to object to our determination.

¹ You may also wish to read and comment separately on the working papers that we will publish following this consultation document.

We note the proposed timetable and the suggestion that participation in the RDG working groups should be open to non-RDG parties. This should prevent duplication of process.

Any other points that you would like to make

Track Access Charges are a large proportion of rail cost and therefore of the logistics cost of the Drax operation. Any prolonged period of uncertainty over future charging levels can be damaging to investment decisions, particularly if large changes are proposed or rumoured. We look forward to being involved in future consultations.

Thank you for taking the time to respond.

Covering letter from East Coast Main Line Authorities

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

5 August 2016

Dear Sir/Madam,

Initial consultation on the 2018 periodic review of Network Rail

I attach the response of the Consortium to this consultation.

Our objective is for better connectivity by passenger and freight services that use the East Coast Main Line to facilitate a potential for economic growth worth up to £9 billion. To this end, we call for the route to permit more services with shorter journey times within an operational regime that promotes reliability and resilience, as well as safety and comfort.

We also call for greater partnership by the rail industry with local transport authorities, Local Economic Partnerships or Enterprise Agencies to better capture the potential for added value to rail investment from economic regeneration schemes or similar. To this end, we welcome the possibility of our member organisations being invited to events hosted by the ORR or to the proposed joint working groups with the Rail Delivery Group.

Please contact me in the first instance if you need further information about the Consortium.

Yours faithfully



Neil Ferris
Executive Group member, Consortium of East Coast Main Line Authorities
Director, City & Environmental Services, City of York Council

About the Consortium of East Coast Main Line Authorities

The Consortium of East Coast Main Line Authorities (ECMA) is a cross-party group of Councils, Combined Authorities, Regional Transport Partnerships and LEPs throughout the area served from the ECML, who are working together to secure economic growth and prosperity. We are calling for improved connectivity by rail in an area extending from northern Scotland to London for both passengers and freight.

Response to ORR’s initial consultation on the 2018 periodic review of Network Rail (PR18)

This pro-forma is available to those that wish to use it to respond to our consultation. Other forms of response (e.g. letter format) are equally welcome.

Please send your response to pr18@orr.gsi.gov.uk by **10 August 2016**.

Full name	Neil Ferris
Job title	Director City & Environmental Services
Organisation	City of York Council on behalf of the Consortium of East Coast Main Line Authorities
Email*	
Telephone number*	

*This information will not be published on our website.

Chapter 2: Context for the review

We invite stakeholders to comment on whether they agree with our view of the context for PR18 or whether they consider there are additional significant points. (If the latter, please explain how these might affect the review).

ECMA agrees with the analysis presented in this chapter. We are particularly concerned about the funding and delivery of schemes that were originally scheduled for CP5. Whilst the Hendy Report has set out a recovery programme, ECMA is very aware that more schemes are still at risk of slippage, thus delaying the enhancements that create the capacity, reliability and resilience that the economy needs from the railway.

We also feel that there is a golden opportunity to increase partnership with local transport authorities, local enterprise partnerships or enterprise agencies in the planning, promotion and delivery of rail investment.

Chapter 3: Focusing the review where it can have most impact for passengers and freight customers

We welcome views on the proposed relative priorities for the review, as well as any other areas that should be prioritised (in which case, we would particularly value views on what should not be prioritised as a consequence).

We support the proposed focus of the review on safety, efficiency and enhancement and welcome the supply of better information to funding organisations. In this latter respect, we call for the review to explore how the rail industry, local government and the business community can best work together to deliver rail schemes, including through the use of new funding streams.

Chapter 4: Our proposed approach to the review

We would like to know if you agree with the overall approach that we have set out for the review.

We would also welcome additional suggestions and proposals for how we might adapt our regulation to the current context. It would be helpful if you could arrange your comments around the headings in the chapter (set out below) where these are relevant to your response.

Route-level regulation

We support the concept of greater, genuine, stakeholder engagement in the setting of route plans. Whilst we do not want to see an onerous requirement placed upon Network Rail, we do feel that there needs to be a more open relationship with stakeholders outside of the rail industry who are, or who represent, end users.

System operation

We support the principle of a regulatory regime that minimises the impact of route devolution on the East Coast Main Line which crosses between several areas. A particular focus here is to safeguard, and enhance, connectivity throughout the area served by the route irrespective of Network Rail zone.

We support the principle of transparency in information, so that end users can clearly understand how Network Rail is performing and what future options are available.

Outputs & monitoring

We support the principle of involving train operators and other stakeholders in the setting of performance metrics that are relevant to end users and funding organisations. These metrics could include a measurement of connectivity to ensure that network linkages are maintained and improved in the new devolved route structure. They also could usefully include metrics that seek to more thoroughly understand the customer experience (for both passenger and freight service customers).

Charges & incentives

The Consortium has no position on the relative merits of franchised versus open access train operation. However, it seems both fair and reasonable that all train operators compete on level terms. Thus we would wish to see a review of the current fixed track access charge system along with consideration of how best to protect public service obligations and how competition can be encouraged, without detriment to network connectivity and reliability.

Approaches for enhancements

We re-iterate our view that there needs to be greater partnership with stakeholders outside the rail industry who represent local communities and economies. We are supportive of the need for a review of how best to deliver enhancements and are particularly interested in the pipeline scheme concept, since we see this as especially beneficial in the programming of economic regeneration activity so creating maximum added value.

ERTMS and related technology

We have no further comment to make on the challenges set out in the document.

Chapter 5: Developing the high-level framework for the review

We welcome views on how our high-level approach could be implemented and on the potential framework set out in chapter 5. As part of this, we invite thoughts on what it is practicable to achieve in PR18 and in CP6, and what might be more realistic to achieve in the subsequent periodic review.¹

We would also welcome any further suggestions and ideas on how we might improve how we regulate Network Rail.

¹ You may also wish to read and comment separately on the working papers that we will publish following this consultation document.

Investment levels in the ECML as a cross boundary route need to be protected.

Chapter 6: Process and engagement

We would be grateful for comments on the proposed phases of the review, including any views on the [draft timetable](#) and our proposed approach to engagement.

We also invite high-level views on the process for customer engagement by Network Rail's routes and the system operator to inform their business plans, in terms of what is achievable for this review.

We would also welcome any views on how Network Rail and train operators would like to engage and be involved in the implementation process for PR18 and any thoughts on the process relating to Network Rail's right to object to our determination.

We support the principle of a collaborative engagement process for the review and welcome the proposal to invite non-rail stakeholders to meetings and working groups. We suggest that representatives from local communities and businesses are invited at the start of the review process, so that they can contribute meaningfully throughout its life. The Consortium can assist in advising of relevant stakeholders along the East Coast Main Line route who the ORR may wish to invite.

Any other points that you would like to make

The Consortium has valued the information and opinions provided by the ORR in the past. Member organisations would welcome the opportunity to participate as a whole line group in this review process. Please contact Neil Ferris at City of York Council in the first instance to make any arrangements.

Thank you for taking the time to respond.

East Sussex Rail Alliance (ESRA) response

Further to the ORR call for consultation on the CP6 funding round for the rail network, we apologise sincerely for the delay in responding - caused by the overwhelming Southern dispute issues and annual vacations - in attaching our response. The East Sussex Rail Alliance is much in favour of Route Devolution and better accountability of Network Rail direct to the public.

Yours Sincerely

Richard Tilden Smith
Consultant
for
Ray Chapman
Co Chairman
East Sussex Rail Alliance

Enc - Consultation response

ORR Consultation – CP6 – Route Devolution

This submission is being made by East Sussex Rail Alliance (ESRA) on behalf of rail passenger stakeholder groups across the County.

Devolution supported

In round terms ESRA considers that the proposal for devolving the responsibilities for financial management of rail routes will enable a greater accountability and transparency to emerge on the investment and maintenance planned and undertaken. The subsequent monitoring of Network Rail performance will reveal where the real responsibilities for service failures occur, at present clouded due to the split between train operation and infrastructure management. This is a prime opportunity to include a preliminary and monitored communications policy and audit of performance.

Background

East Sussex is served by one principal direct route to London (London via Tonbridge to connect to main Kent line into London), and two indirect routes to the Capital east and west on along the South Coast which connect via the Brighton Main Line to Victoria; and the Ashford HS1 to St Pancras.

ESRA reminds ORR that there have been major disruptions to train services over the immediate past years due to failures in the infrastructure 1) on the Tunbridge Wells-Hastings line and 2) the continuing inadequacies of the London-Brighton line caused by 3) lack of capacity and investment in bottleneck relief and 4) shortcomings in track and signalling.

Funding starvation

There has been, and continues, to be a severe failure in providing adequate and continuing investment in rail infrastructure maintenance, renewal and development. The impact of this is to cause severe loss of confidence by stakeholders in the use of the railway network, which if properly reviewed would help compensate for the utterly appalling level of funding and resulting congestion of the inadequate trunk and rural road availability.

Such rail service inadequacy is one of the key reasons for the poor appreciation of the South Coast as prime national development prospect. It also accounts for the less than favourable growth in rail passenger usage as the services from the Coast to the Capital are unreliable, expensive and time wasting. Line speeds and capacity are the direct cause of this. The resulting impact on productivity is massive and the local economies of the South Coast relatively depressed.

Area v Route Management

ESRA sees devolution as a progressive and welcomed change to remove one of

the major stumbling blocks to Network Rail's strategic route management. The trunk routes are well covered by the Sussex and the Kent Route studies, by area. However, within those areas, these support only the main routes and not the substantial input of the subsidiary lines, such as the West and South Coastal lines feeding into the Brighton Main Line, which fall divisively into two Network Rail sectors. And because of this the funding criteria for peripheral Third Party development continually fall below the line of priority consideration. All routes also fall foul of the excessive number of civil administrative and funding boundaries.

For example, the route from Ashford (Kent) to the Brighton main line and the major development at Gatwick of Airport and potential fracking terminals, crosses two LEP boundaries, three County Council borders, ten and more City, Borough and District Councils. Attracting a consensus for funding developments in rail capacity, existing and new station facilities does not take into account national trends but concentrates on local issues and needs, especially as budgets are now very tight and the pressures are for instant see-able non-rail investments by local voters.

This prospective route devolution – extended to join Ashford (HS1 and Channel Tunnel) with Hastings, Eastbourne, Brighton, Portsmouth and Southampton – where 95 per cent of the route lies within Network Rail's existing boundaries - is eminently suited to upgrading as a trunk route in its own right.

The ESRA contention is that, by full line management, a new impetus would be created, especially with consistent route electrification (Ore-Ashford), increased line capacity, line speed upgrades by renewal and relay, improving station capacities and reviewing stop frequencies, loops for freight services, the South Coast Main Line (as ESRA has dubbed it) is a prime candidate for its own financial and operational management.

Conclusions

Subject to conditions as follows, ESRA is in favour of devolution and greater accountability that appears to be proposed in the future of route management:

1. Redefinition of Routes by consultation to determine development potential and public investment to encourage growth
2. Fundamental restructuring of Route management based on public accountability and a communications method that provides transparency and suitability for external monitoring.
3. While there will continue to be a scramble for funding support of newly defined Routes each must have its own strategic development plan, relationship clearly defined between this and cross border traffic, and a fully accountable management.

Submission made by
Ray Chapman
Co Chairman

East Sussex Rail Alliance

31 August 2016

Response to ORR's initial consultation on the 2018 periodic review of Network Rail (PR18)

This pro-forma is available to those that wish to use it to respond to our consultation. Other forms of response (e.g. letter format) are equally welcome.

Please send your response to pr18@orr.gsi.gov.uk by **10 August 2016**.

Full name	Alastair Southgate
Job title	Transportation Strategy Manager
Organisation	Essex County Council
Email*	
Telephone number*	

*This information will not be published on our website.

Chapter 2: Context for the review

We invite stakeholders to comment on whether they agree with our view of the context for PR18 or whether they consider there are additional significant points. (If the latter, please explain how these might affect the review).

Essex County Council (ECC) agrees with the key issues identified by the Office of Road and Rail (ORR) that underpin the context for the 2018 periodic review of Network Rail (PR18).

In particular we believe that meeting the growth in demand for both passengers and freight is a key issue.

Chapter 3: Focusing the review where it can have most impact for passengers and freight customers

We welcome views on the proposed relative priorities for the review, as well as any other areas that should be prioritised (in which case, we would particularly value views on what should not be prioritised as a consequence).

ECC believes that clearly defined outcomes focussed on the efficient delivery of services to rail users are essential.

Increasing passenger numbers require increased train capacity to enable journeys to be made in comfort and investment in improved stations to accommodate increased passenger throughput. In the past Network rail has focussed on the provision of capacity needed to run trains; instead, ECC would wish to see a focus on the movement of passengers and freight. Network Rail should be required to ensure that sufficient track and station capacity are available to ensure that the increased service frequency and increased station stops necessary to meet

passenger demand can be accommodated without impacting upon journey times.

Given an increased focus on Routes and plans for devolved government, ECC and other local partners are well placed to work together with Network Rail to identify specific locations where significant passenger growth is likely, to develop appropriate local solutions and identify potential local funding sources.

ECC would agree that there is a need to better align network investment and franchise decisions; however, for this to be effective it is essential that the franchise renewal process functions correctly. Essex has experienced a long period of short term and extended franchises that have made long term planning and decision making difficult.

A degree of flexibility within the rail planning process would be appropriate; for many investments the current 5 year planning horizon is too short while the process is also unable to respond to local opportunities as they come forward. Flexibility should not; however, come at the expense of transparency. Investment decisions could become more complex and the role of the ORR more challenging if investment in parts of the network are considered via a periodic review, part by franchise related plans and part by Government decisions outside of these processes. A clear strategic context for the national rail network and each of the local routes is essential.

Chapter 4: Our proposed approach to the review

We would like to know if you agree with the overall approach that we have set out for the review.

We would also welcome additional suggestions and proposals for how we might adapt our regulation to the current context. It would be helpful if you could arrange your comments around the headings in the chapter (set out below) where these are relevant to your response.

Route-level regulation

Route level regulation needs to reflect local aspirations while maintaining national interoperability. It should be the role of the ORR to ensure that these potentially conflicting requirements are met.

Essex has a complex pattern of services dominated by commuter services to London, but also including Intercity services, Airport services, rural passenger services and freight. It is important that route level regulation reflects the needs of these different service groups. If freight is to be considered as a separate "route" national level co-ordination will be required to ensure appropriate provision for both passengers and freight. Similarly, the regulation and planning of Essex rail services need to be effectively integrated with services operated by Transport for London.

System operation

It should be the role of the ORR to ensure that a fully interoperable National rail system is maintained; however, the greater involvement of local stakeholders in the development of Route Plans should be encouraged.

Outputs & monitoring

ECC strongly supports an increased role for local stakeholders in setting outputs and the

development of monitoring methodologies. There should also be a stronger role for stakeholders in the monitoring process and in agreeing any mitigations or improvement plans necessary.

Charges & incentives

Approaches for enhancements

Local experience would suggest that the cost of delivering rail related improvement projects is high when compared to other similar engineering work.

It is important that the rail industry develops a robust and effective mechanism for the calculation of improvement scheme cost estimates that includes realistic levels of risk. While costings produced in the past may have underestimated the final delivery cost, recent costings suggest that rail industry cost calculations incorporate large allocations for risk. Accurate cost estimates are necessary if Network Rail is to forward plan effectively.

ERTMS and related technology

The development of ERTMS is welcome: however, further work is required to ensure that the initial promise can be delivered on what is a complex rail network. Investment in much needed shorter term additional capacity such as additional passing loops should not be delayed based upon the promise of the future implementation of ERTMS.

Chapter 5: Developing the high-level framework for the review

We welcome views on how our high-level approach could be implemented and on the potential framework set out in chapter 5. As part of this, we invite thoughts on what it is practicable to achieve in PR18 and in CP6, and what might be more realistic to achieve in the subsequent periodic review.¹

We would also welcome any further suggestions and ideas on how we might improve how we regulate Network Rail.

A clear strategic context for the national rail network and each of the local routes is essential. This would enable the identification of clear outcomes, both National and local, and transparent budget allocations to each route and to National projects.

Taken together with a better alignment with franchise decisions, route based settlements could enable a wider discussion of the appropriate level of funding allocated across the rail network.

¹ You may also wish to read and comment separately on the working papers that we will publish following this consultation document.

Chapter 6: Process and engagement

We would be grateful for comments on the proposed phases of the review, including any views on the [draft timetable](#) and our proposed approach to engagement.

We also invite high-level views on the process for customer engagement by Network Rail's routes and the system operator to inform their business plans, in terms of what is achievable for this review.

We would also welcome any views on how Network Rail and train operators would like to engage and be involved in the implementation process for PR18 and any thoughts on the process relating to Network Rail's right to object to our determination.

Local engagement by Network Rail needs to reflect the developing devolution landscape, especially within England. As different models emerge across the country, Network Rail will need to ensure that passengers across the country are not disadvantaged by the local model of devolved government that may be in place where they live.

ECC would strongly support efforts by the ORR to make their documents more accessible to encourage input from passengers and freight users.

Any other points that you would like to make

Thank you for taking the time to respond.

Office of Rail Regulation
One Kemble Street
London
WC2B 4AN
By email to PR18@orr.gsi.gov.uk.

Dear Sir/Madam,

2018 Periodic Review of Network Rail (PR18) – Initial Consultation

Thank you for the opportunity to respond to the initial consultation for the 2018 periodic review of Network Rail. I respond on behalf of Europorte who (via GBRf) are the 3rd largest freight operator in the UK and one of the 2 through Tunnel, cross channel freight operators. I speak specifically regard the cross channel market although the risks are as relevant to UK domestic

The current control period saw significant double digit growth to mid-2015 with planned developments to continue through to 2020 (which would have seen cross channel freight at record level since the Tunnel opened. Despite the migrant crisis that affected both short sea and through Tunnel, we have started to see the return of interest again.

That interest includes

- a) new intermodal services from France, Italy, Germany and Belgium to serve London, Midlands (Daventry/Hams Hall), Manchester and Scotland
- b) New automotive export and import from Bristol and Swindon and from mainland Europe to London
- c) Trucks on rail from eastern Europe to London
- d) Export of UK waste for energy from several UK locations to Holland, Belgium and Germany
- e) Supply of new rolling stock and freight wagons to help deliver capacity for growth in UK rail

We note that you are proposing extensive work around route based regulation, system operation, enhancement as well as potential changes to access charges.

As you develop those details, it is important that you give full regard to the impact on rail freight, and help to ensure that there is a stable, simple and affordable framework which will enable us to realise these projects. Any significant increase in total freight charges risks not only cross channel but also domestic UK as we operate in extremely close competition with road and short sea

In particular, we would ask you to keep the variable access charge at current levels, and ensure that the total charges for freight operators remain affordable; retain charges on a national basis for freight; regulate the virtual freight route and system operator in an effective way, to encourage improvements in freight efficiency and consider how Network Rail will engage with the wider freight sector in developing its plans.

Yours faithfully,

Francois Coart
Group Development Director
Europorte

By email:
pr18@orr.gsi.gov.uk

Chris Hemsley
Office of Rail & Road
One Kemble Street
London
WC2B 4AN

12 August 2016

Dear Chris,

FirstGroup Rail Division Response to ORR's initial consultation on the 2018 periodic review of Network Rail (PR18)

Thank you for the opportunity to comment on the initial consultation on ORR's PR18 process, which has been launched this year. This response is made on behalf of FirstGroup and its affiliate organisations; Great Western Railway, TransPenine Express, Hull Trains and East Coast Trains Ltd. I would like to note that FirstGroup as a committed member of the Rail Delivery Group has been involved in the development of its response to this consultation and endorses the points that have been made therein.

We would stress that the focus of the review should be evolutionary from the previous Periodic Review work, focusing on those areas that were identified for further development, rather than undertaking a fundamental review of each and every aspect of the economic regulation of Network Rail. Given the significant impact of route regulation, this should be the focus for this periodic review in order that it is a success and that scarce industry resources are not diverted across a plethora of activities that could lead to a poorly conceived and implemented route regulation solution. This does not mean that work on developing and implementing improved solutions for key aspects of the economic regulation structure, specifically in relation to charges and incentives. In this regard ORR should take cognisance of the extensive work undertaken by RDG on charges and incentives, which provides a useful starting point for this work, building on the outcome of PR13.

We note that the ORR has established six high level outcomes for the railway network and that these will inform the approach to PR18. We would contend that there should also be a primary focus on the end user – in our case the passenger. As an industry “owning group”, FirstGroup delivers through its Train Operating Companies (TOCs) services for passengers and it is their needs that should be at the heart of the outcomes of the railway and must therefore be taken into account when determining

the priorities for Network Rail. We are concerned that there is limited reference to the fact that Network Rail should be responsive to, and recognise the needs of, its customers – the train and freight operators – who have the direct relationship with the end users of the railway as a whole.

Our response covers a number of aspects of the consultation and focuses on the five priority areas for the review (route level regulation; System Operator; treatment of enhancements; treatment of costs and improving incentives; and refining the framework for outputs and monitoring). FirstGroup also recognises and acknowledges the context against which the ORR has commenced this review which is set out in the consultation document, and this is reflected within our comments. We would also note that the Department for Transport has been undertaking its own review of regulation of the railway and there is also a clear desire within Government for a change in the approach to the High Level Output Statement and Statement of Available Funds processes which are linked to the current five-year funding cycle.

The regulatory framework for the next control period needs to recognise the end user and focus on outcomes that support the delivery of train services to end users and not encourage NR to focus on the ORR. The framework should reflect that the Network is a system where some activities are managed locally and some are more effectively and efficiently delivered for the system as a whole. We would recommend that the framework and approach to the review acknowledges that there should be a different approach to Enhancements from that associated with Operations, Maintenance and Renewal activity, which should be at the core of this review. Whilst some enhancements will continue to be centrally funded many are likely to be subject to new arrangements in respect of financing and specification that are being developed by Government with input from the industry. FirstGroup has already recommended to the Department for Transport that there is separation of the processes for Enhancements, such that there is a rolling programme not tied to, but cognisant, of the fixed five-year funding periods, enabling a more continuous, flexible and effective delivery of enhancements that facilitate franchise outcomes and other funders priorities.

The remainder of our letter sets out our high level comments on each of the priority areas:

Route Regulation & Devolution

- End-user priorities must be considered;
- Routes will need to have meaningful measures, agreed with train and freight operators such that they reflect the requirements of the end users, but this should not lead to management by KPI. There also needs to be consideration of franchised outcomes and requirements for relevant operators;
- Whilst the boundaries of Network Rail Routes are clear, operator networks do not match these boundaries and that needs to be accounted for in developing the requirements and measures;
- Route business plans should recognise the overall System Operator role and must be developed in conjunction with operators;
- Operations Maintenance & Renewal (OMR) activities should be considered separately from Enhancements; and

- Network Rail should have flexibility to move resources between routes, and any enforcement measures should be considered against Network Rail as a whole rather than by route, which could have a significant and debilitating impact on the route in question.

Charges & Incentives

- A route based charging approach is unlikely to be effective and will be difficult to implement and as such is not a priority;
- Recognition that Schedule 8 is a liquidated damages regime that compensates operators for business disruption caused by Network Rail which is beyond the control of operators (this is similar for Schedule 4, although that is in relation to planned disruption to the timetable);
- There is no need to change the Schedule 8 mechanism as it works well, although amended payment rates to reflect current revenue and demand are needed. Delay Repay contribution from Network Rail for the delays and cancellations it causes must also be incorporated, increasing the incentive on Network Rail and assisting transparency for end users;
- Schedule 4 needs to be accurately reflect costs that operators bear for possessions, and these should be incorporated into the standard compensation calculations;
- Arrangements for sustained poor performance (Schedule 8) and significant planned disruption (Schedule 4) need to be revised such that there is a clear and defined process to achieve resolution of claims;
- Financial enforcement should focus on NR having to rectify problems, rather than paying fines;
- Capacity charge and Schedule 8 relationship needs to be more adequately addressed; and
- Clarity is needed over the approach to potential additional charging for open access operators, which will need to be carefully considered taking account of all relative legislation and ensuring fair and unfettered treatment of open access operators that also recognises the benefits that they bring to the market and passengers.

System Operator

- The concept is supported but structure and approach to regulation should not be overly complex;
- Whilst the System Operator should have overall management of capacity, it cannot be responsible for determining or approving access rights (this must remain with ORR) and timetabling processes need local focus and knowledge;
- The single System Operator should be responsible for all elements of the Network, including for example other parts of the infrastructure that are used by train and freight operators including HS1, HS2 and the Heathrow Spur, whilst recognising that these sections of railway infrastructure are not necessarily owned by Network Rail; and
- The principle of one Track Access Contract per operator must be maintained

Outputs

- Route scorecards are welcomed but they need to be appropriate and recognise the needs of the relevant operators – they need to be negotiated and agreed with operators reflecting the needs of end-users and franchise outcomes;
- We are supportive of the work being led by NTF on new performance metrics; and
- Performance trajectories may be a more appropriate measure for Network Rail and the focus should be on those elements of reliability that Network Rail can control (i.e. delays and cancellations caused by Network Rail rather than PPM, which it is not in total control of).

Enhancements

- Enhancements are fundamentally important to the development of the railway as part of the overall long term plan to meet future growth and outcomes (and are linked to franchise outcomes);
- Do not need to be tied to a five-year planning process and should be considered separately from Operations, Maintenance and Renewal, particularly given the developing nature of delivery, devolution and funding sources. However, the Long Term Planning Process, including market studies and route studies will remain important in identifying and developing schemes that will achieve required outcomes; and
- Ring fenced funds for specific outcomes (e.g. performance, station improvements) that are managed by NR and RDG provide much needed flexibility

Finally, we would urge the ORR to recognise that the implications of a number of aspects of its approach to PR18 has the potential to require significant time and resource. This is an activity which is not necessarily a core skill, particularly at TOC level. The ORR will also be aware that over the next 18 months there are a significant number of franchise competitions, which will, by the very nature of our business be a priority. As such there is likely to be pressure on the available resources and skills within our organisations and would therefore appreciate an approach that is prioritised and communicated in a timely and effective manner.

Notwithstanding the comments in the preceding paragraph we look forward to working effectively with the ORR during the PR18 process. If there is any aspect of this response that you would like to discuss in more detail, please do let me know.

If you would like to discuss any elements of our response in more detail, we are available to meet with you as required.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Russell Evans', with a long horizontal flourish extending to the right.

Russell Evans
Policy & Planning Director, FirstGroup Rail Division

The Office of Rail and Road (ORR) Periodic Review Initial Consultation

Freight on Rail thanks the ORR for the opportunity to comment on the Periodic Review Initial Consultation.

Freight on Rail, a partnership of the rail freight industry, the transport trade unions and Campaign for Better Transport, works to promote the economic, social and environmental benefits of rail freight to local, devolved and central Government.

Context for consultation

ORR support for the industry is needed during this transitional phase to provide stability after the steep decline in the past six months in coal traffic which had represented a third of the business. Furthermore, rail freight is sensitive to economic cycles so any fall in construction activity, due to uncertainty as a result of Brexit, will affect demand.

ORR should be clear that these changes mean that operators are not able to absorb any increase in costs. Increased costs for end customers will mean that traffic will revert to roads and this will mean that environmental and economic benefits will be lost to the UK. In addition road costs will increase as HGVs do not cover their costs in full.

Comments on the consultation

1. We are concerned about the high level of detail and uncertainty in the proposals. In particular the proposal to change the method of regulating Network Rail (NR), with separate route-based settlements rather than a single settlement. This introduces unwelcome uncertainty as freight needs a national approach. Further detail from Network Rail (NR) is necessary before ORR can conclude how best to regulate.

We would urge the ORR to leave freight charges alone and retain nation charging as freight is a nation-wide service provider. There are serious risks and uncertainty for freight were geographical charging structures to be introduced.

2. ORR must also act to keep freight charges affordable and simple.
3. We ask the ORR to support the NR virtual freight route which gives freight the same status as the routes, which is crucial in both NR and political devolved structures.
4. A centralised system operator function run by Network Rail with nationwide access, timetabling and possession planning, is crucial for rail freight.

5. Recognition of market distortion between HGVs and rail freight

Because of the lack of parity between HGVs and rail freight it remains difficult for rail to compete, especially in consumer markets. The scale of subsidy to HGVs makes a compelling case for supporting rail freight equivalently as it imposes much lower costs on society and the economy. The Government's mode shift



Freight on Rail is a partnership of many organisations promoting the economic, safety and environmental benefits of rail freight.

grants recognise these market distortions and the wider advantages of the shift to rail and currently *support a* quarter of rail traffic. However, there remains a requirement to address the underlying distortion in the freight market to realise the full benefits of an optimal mixed modal transport sector. In addition the scheme is complex to operate and is subject to Government spending rounds and reductions as well as state aid rules, and we would not support proposals to extend the scheme to compensate for an increase in charges.

6. Scale of lack of internalization of HGV external costs

The new cross modal duties of the ORR provide an opportunity for a more holistic approach, recognising the value equation between freight subsidy and the direct and indirect benefits to the UK economy.

Research carried out for the Campaign for Better Transport in 2015 using the latest DfT Mode shift values, found that HGVs receive a £6.5 billion annual subsidy which means that HGVs pay less than a thirdⁱ of the costs associated with their activities in terms of road congestion, road collisions, road damage and pollution. These conclusions are in line with two other separate reports. MDS Transmodal study in 2007 found a very similar amount of underpayment: £6billion. Transport & Environment researchⁱⁱ issued in April 2016 found that HGVs were only paying 30% of their external costs.

The latest findings from this research show that there is a strong case for equivalently supporting rail freight through lower rail freight access charges and Strategic Rail Freight Network upgrades in order to allow rail to compete more fairly with HGVs.

Whilst we recognise that the charging models for road and rail differ, this work is an important context against which options for rail freight costs and charges must be considered. If higher rail freight charges force flows back onto road, there are significant costs to the economy and society which should be factored into your calculations.

Philippa Edmunds Freight on Rail Manager July 2016

ⁱ <http://www.bettertransport.org.uk/dangerous-dirty-and-damaging-new-research-reveals-impact-hgvs>

ⁱⁱ <https://www.transportenvironment.org/news/trucks%E2%80%99-%E2%82%AC143bn-cost-society-not-being-repaid-%E2%80%93-study>



Freight on Rail is a partnership of many organisations promoting the economic, safety and environmental benefits of rail freight.

Response to ORR’s initial consultation on the 2018 periodic review of Network Rail (PR18)

This pro-forma is available to those that wish to use it to respond to our consultation. Other forms of response (e.g. letter format) are equally welcome.

Please send your response to pr18@orr.gsi.gov.uk by **10 August 2016**.

Full name	Christopher Robert S MacRae
Job title	Head of Policy – Rail Freight and Scotland
Organisation	Freight Transport Association
Email*	
Telephone number*	

*This information will not be published on our website.

Chapter 2: Context for the review

We invite stakeholders to comment on whether they agree with our view of the context for PR18 or whether they consider there are additional significant points. (If the latter, please explain how these might affect the review).

It is correctly stated that this review takes place in a changed context of reclassification of Network Rail’s ownership and thereby increased Government involvement. Also a context post the Hendy Review of current Control Period enhancements delivery and the Bowe Review of delivery of future enhancements, as well as the context of political devolution of funding and the route level devolution of Network Rail and the prospect of deeper alliancing as in the ScotRail Alliance model.

Therefore it is particularly important from a freight perspective that the Network Rail Freight and National (GB) Operators team is developed alongside the System Operator role.

Chapter 3: Focusing the review where it can have most impact for passengers and freight customers

We welcome views on the proposed relative priorities for the review, as well as any other areas that should be prioritised (in which case, we would particularly value views on what should not be prioritised as a consequence).

The priorities expressed are correct (a network that is more efficient, better used, expanded effectively, safer, available, reliable) and of themselves difficult for anyone to contest. However, 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.

Chapter 4: Our proposed approach to the review

We would like to know if you agree with the overall approach that we have set out for the review.

We would also welcome additional suggestions and proposals for how we might adapt our regulation to the current context. It would be helpful if you could arrange your comments around the headings in the chapter (set out below) where these are relevant to your response.

Route-level regulation

Freight operates across routes (most freight flows cross a route boundary). While the ideas presented here 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. For Britain-wide operators this will certainly add cost and complexity to rail freight,

where it must be remembered rail freight is competing against road freight that does not have such level of network access financial regulatory complexity.

System operation

We welcome the approach to system operation. It is vital that such approach generates improvement for freight as a cross route operation.

Outputs & monitoring

This relates to the above and it is again important that on a freight corridor end-to-end journey basis the performance of freight is measured and publicly transparent. A further suggestion (by freight customers) is that performance by freight operators should also be publicly available as with the FDM on a corridor basis.

Charges & incentives

As stated above we are opposed to the practical difficulty of route-based charging for freight. This is because of the added complexity and the fact it does not assist with cross-route freight operation.

Approaches for enhancements

For freight it is important that a co-ordinated approach is taken that delivers real benefits in capacity, capability, and end-to-end journey time improvements. However it is important that such enhancement projects learn the lessons from CP5 and the Bowe Review. SFN schemes were generally well delivered in CP4 but in CP5 the larger schemes became mired in problems about scope, lack of clarity of outputs and funding issues when interfacing with route-based schemes. It is important that the needs of freight and freight enhancement schemes are effectively represented by the NR freight team in discussions with the Routes.

ERTMS and related technology

It is important that ERTMS is delivered in a manner that does not disadvantage freight. While ERTMS should theoretically improve capacity there are concerns among freight operators at its practical application (re braking curves etc) for freight and that that could decrease rather than increase capacity. It is also important to remember that unlike route-based TOC fleets, FOC freight locos need a “go-anywhere” (allowing for existing Route Availability) capability and so, unlike TOC fleets that can be fitted as and when ERTMS is rolled out on their route, FOC freight locos will need to be fitted on a Britain-wide basis from the start. The costs of this need to be addressed.

Chapter 5: Developing the high-level framework for the review

We welcome views on how our high-level approach could be implemented and on the potential framework set out in chapter 5. As part of this, we invite thoughts on what it is practicable to achieve in PR18 and in CP6, and what might be more realistic to achieve in the subsequent periodic review.¹

We would also welcome any further suggestions and ideas on how we might improve how we

¹ You may also wish to read and comment separately on the working papers that we will publish following this consultation document.

regulate Network Rail.

Clearly a greater route-based approach is the direction of travel with devolution of funding regionally within England (funding already devolved to Scottish Ministers for the Scottish network). Against this background it is important that a strong System Operator role is developed to protect and advance the needs of freight. We do intend to respond to the working papers published following this consultation document.

An additional suggestion regarding improved regulation of Network Rail may be for freight the concept of a statutory freight “champion”. Such concept exists in ORR’s newer role as monitor of Highways England where there is a road user representation.

Chapter 6: Process and engagement

We would be grateful for comments on the proposed phases of the review, including any views on the [draft timetable](#) and our proposed approach to engagement.

We also invite high-level views on the process for customer engagement by Network Rail’s routes and the system operator to inform their business plans, in terms of what is achievable for this review.

We would also welcome any views on how Network Rail and train operators would like to engage and be involved in the implementation process for PR18 and any thoughts on the process relating to Network Rail’s right to object to our determination.

A suggestion on engagement may be for a session with ORR and freight customers, possibly a special session of the ORR Freight Customer Panel to articulate freight issues in this review.

Any other points that you would like to make

If thought necessary we are happy to engage in a one-to-one meeting to discuss further any issues arising.

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.

Thank you for taking the time to respond.

Response to ORR consultation

Initial PR18 consultation document

Freightliner Group

August 2016

INTRODUCTION

This is the response of Freightliner Group Limited encompassing its subsidiaries Freightliner Limited and Freightliner Heavy Haul Limited to the Office of Rail and Road's (ORR) Periodic Review 18 (PR18) initial consultation document.

Freightliner has worked with the Rail Delivery Group (RDG) over the last two years as part of their Review of Charges work programme. This has involved considerable input and engagement and we think that this work has helped to clarify the most important issues that should be considered by the ORR as part of their PR18 review.

Freightliner has also been participating with the RDG in the various workshops to discuss this consultation.

EXECUTIVE SUMMARY

Freightliner's priorities for the review are:

- A continued emphasis on improving safety
- A stable, national and simple charging and incentives framework, which does not increase the overall level of charges paid by freight operators
- Reducing overall industry unit costs and delivering efficiency
- A greater focus on optimisation of capacity and careful balancing of passenger and freight needs by the System Operator
- Delivery of value for money outputs through a long term programme of infrastructure enhancements
- A customer focussed ethic throughout Network Rail and a supplier who wants our business to be successful

Cost efficiencies

Freightliner strongly supports the increased transparency and granularity of Network Rail's costs that route regulation will trigger. Better understanding of costs will provide the basis for further cost savings and efficiencies going forward. We consider that this is a priority for the periodic review. We recognise the considerable cost efficiencies that Network Rail have already delivered but reducing rail industry costs and delivering efficiencies going forward remains of great importance. All industries must continue to focus on reducing costs and delivering efficiencies to remain competitive, and the railway is no different.

Priorities

The proposed shift to regulating at route and system operator level is the most fundamental shift in both industry structure and regulation since privatisation. As such, all industry participants recognise the significant challenge that this represents and must recognise the considerable resource from the ORR, Network Rail and operators that will be required to deliver this change.

In the consultation ORR lays out the need to prioritise where the review can make a significant impact on outcomes for passengers, freight customers and funders. Freightliner agrees with the need to prioritise the tasks ahead given the regulatory challenges following the restructure of Network Rail.

Apart from changing to route based regulation the other parts of the work programme laid out are still very considerable, including reviewing of access charges and incentives. We suggest that the ORR considers reducing the scope of its review in some areas and focuses on the areas that the industry has highlighted as priorities, through the work undertaken by the RDG. We suggest in particular that this would include the Capacity Charge and the

benchmarks in Schedule 8 and whether there is still a case for the Freight Specific Charge.

In setting its priorities we suggest that the ORR measures these against a test of improving industry and customer outcomes, including the values off the railway balance sheet that are created by the railway.

Access Charges

Freightliner would strongly welcome a period of stability given the current backdrop of uncertainty, which is creating a challenging business environment at the moment. Analysis commissioned by ORR during PR13 highlighted that most market sectors are unable to withstand an increase in charges without significant loss of traffic to road; given the changes in the coal and iron ore markets and the reduction in oil price any increase in charges is now likely to have an increased impact on rail market share.

It would help to support modal shift to rail, which in turn creates benefits off the railway balance sheet to the UK, if access charges could be set over a longer period, preferably for at least 10 years. Such stability would enable investments to be supported by freight operators, our customers and the wider logistics chain, such as in ports and terminals, in turn improving the efficiency and reliability of the rail freight product, making it more attractive to users.

Customers

The customers of rail freight operators want an affordable, reliable and consistent product that is easy to use and supports their business success. Network Rail has already laid out its plans to become more customer focussed and we welcome this refresh in approach. The regulatory framework should support Network Rail in their aims and enabling them to support train operators to deliver to their customers.

Network Rail should be encouraged, through regulated outputs to enable operators to become more efficient, not just themselves, so that the whole rail industry becomes more competitive. An example of this would be enabling freight operators to run longer trains and to reduce journey times.

Simplicity

Using rail freight is already far more complicated than using the road network and we urge the ORR to have an overarching aim in all of their decision making not to make the rail product ever more complicated to use. In particular we urge that access charges are simple and easy to understand. Charges and incentives should be easy to understand and capable of dissemination throughout rail organisations.

Charges and Incentives

It is important that the periodic review process does not create any more shocks for the rail freight industry on top of the challenges already present within the sector following the decline of coal. In the face of the structural changes there is a clear appetite from Government to support rail freight, and its economic and societal benefits, and there is recognition that the charging regime is a central plank in assisting this growth. We ask that the ORR is cognisant of how any proposed changes to regulation should support these aspirations.

We are participating in the group led by the Department for Transport (DfT) to consider how the government might continue to support the rail freight sector if charges become unaffordable (Freight Investability and Sustainability Group (FISG) and DfT rail freight strategy work-streams). Whilst we support this work, it must be clear that this is a backstop provision rather than a desired outcome. As the work to date indicates that many

options are not legally possible, and that others have major downsides in resource allocation, we would urge the ORR to avoid reliance on such mechanisms as far as is possible.

RDG has set out the views of its members against introducing route based access charges in CP6, Freightliner strongly supports this stance. Route based charges will be extremely complicated to administer and would create “winners and losers” as well as leading to perverse incentives to use busy routes. Freightliner understands and supports the need to have comparative costs and to understand costs better but this does not have to be translated into access charges. There are many examples of regulated industries where there is a national tariff e.g. post, even though costs vary geographically. Fundamentally, we would like to stress that the rail freight’s competitor - road pays a flat fuel duty that does not take account of any regional differences in road costs.

System Operator

Freightliner is a strong advocate of a clearer and more emphasised role for the System Operator. We believe that the devolution of Network Rail creates the opportunity to shape the System Operator to deliver high value to customers and funders alike. Our vision is of a System Operator who looks to optimise capacity in a sophisticated way to achieve the highest value for money out of existing infrastructure whilst understanding the impacts of the timetable on performance. We believe that there are opportunities to make the system operator a more fulfilling, rewarding and exciting place to work which will help create a centre of excellence that retain talented people.

We would like to see a move away from a data-driven train planning department solely measured on speed of processing bids and delays caused, to a department which considers the quality of outputs - in particular, how well the system operator has identified or allocated capacity.

Investment

We support the continued investment in the rail network, supported by government. In particular the Bowe review noted the success of the industry governance of the Strategic Freight Network fund, as well as delivering high value for money and we suggest that this could be the basis of a model for other investment funds.

We recognise the challenging financial environment but for the longer term success of the railway it is important that there is a pipeline of investments to enable suppliers to invest in people and skills as well as capital equipment to support future efficient delivery, rather than a stop-start approach.

Timescales

The timescales laid out by the ORR for the review process may be challenging and we particularly note that Network Rail has not yet declared the detail of how its own organisation will work in terms of the detail of the role of the System Operator and the Routes and in particular for freight how the Freight route and the geographic routes will work together. We are aware of the wider uncertainties facing the UK Government and the likely changes to funding of enhancements outside of the periodic review process.

OVERVIEW

Government support for rail freight

The benefits to the UK economy of having a competitive, vibrant and growing rail freight sector are recognised by Government. Claire Perry in a speech to the Institute of Civil Engineers, discussed the remarkable growth of the sector since privatisation and the potential to grow further and reaffirmed that the “government wants to work with the rail freight industry to realise that growth”¹.

Both Transport Scotland and the Department for Transport (DfT) recognise the importance of having charges and a charging structure that supports rail freight growth. In its rail freight strategy Transport Scotland offers “broad support [for] the industry’s calls for some degree of long term certainty in the charging regime” and as a result are planning to “revise the Scottish Government Guidance to ORR to better reflect rail freight and the need for a stable regulatory environment to support growth”.

The DfT has been developing its Rail Freight Strategy with the aim of meeting “ministers’ commitment to support the growth of rail freight”. The ‘Charging and support regime’ is one of the key pillars of this group and this is looking to, amongst other objectives, “improve long-term certainty of charging and support regime”.

With clear appetite from Government to facilitate rail freight growth we ask that the ORR is cognisant of the impact of its periodic review on the rail freight sector and urge the ORR to make decisions that support the governments’ aspirations to enable more rail freight.

Benefits of rail freight

Rail freight makes a significant contribution in facilitating economic growth, by increasing the productivity competitiveness of UK businesses, as well as supporting government’s environmental targets and reducing congestion. Across Great Britain as a whole, the productivity gains for UK plc, and the congestion and wider environmental benefits generated by rail freight, are worth over £1.6bn per annum to the UK economy². Should rail freight grow in line with forecasts the economic benefits generated by rail could increase to nearly £4bn per annum in today’s money.

The prize for having a competitive and sustainable rail freight sector is substantial and it provides Government excellent value for money. Using the data from Control Period 5 (CP5) review of charges, and taking into account the support received from the taxpayer, net of track access charges paid, rail freight generates between £6 and £25 of benefits to the UK economy for every £1 of taxpayer support. This calculation is shown in Table 1.

Table 1: Rail freight value for money

	High	Low
LEK Avoidable Cost	£311m	£134m
Freight Charges paid to NR	(£87m)	(£87m)
Revenue support (MSRS)	£18m	£18m
Net support to Freight	£242m	£65m

Economic benefits to UK plc.	£1,649m	£1,649m
Value for money	6.8	25.2

The reduction in freight volumes resulting from any increase in access charges are likely to cause the economic benefits to disappear at a faster rate than the additional costs recovered from higher charges.

¹ The remarkable rise of rail freight, DfT, 2015

² Freight Britain, Rail Delivery Group, 2015

This highlights the importance of ensuring that the benefits that fall outside the railway balance sheet are understood when evaluating the future charges and incentives regime.

Chapter 3. - Focusing the review where it can have most impact for passengers and freight customers

Freightliner supports ORR's aim for CP6 of "A safer, more efficient and better used railway, delivering value for passengers, freight customers and taxpayers in control period 6 and beyond".

Freightliner's priorities for the review are:

- A continued emphasis on improving safety
- A stable, national and simple charging and incentives framework, which does not increase the overall level of charges paid by freight operators
- Reducing overall industry unit costs and delivering efficiency
- A greater focus on optimisation of capacity and careful balancing of passenger and freight needs by the System Operator
- Delivery of value for money outputs through a long term programme of infrastructure enhancements
- A customer focussed ethic throughout Network Rail and a supplier who wants our business to be successful

In addition we are interested in a better understanding of cost causation and more transparency about costs that drive decisions about changes to the network, decisions about engineering work and options for enhancements.

Access Charges

Given the ambitious approach proposed by ORR for PR18 with the shift to regulating at route and system operator level, Freightliner suggests that the review of access charges and incentives should be focussed where the industry has highlighted that there is a need for improvement. We suggest in particular that this would include the Capacity Charge and the benchmarks in Schedule 8, as well as the Freight Specific Charge.

Freightliner would welcome an early statement by the ORR around the stability of the level and structure of charges to support future investment and rail freight growth. Any changes to the charges and incentives regime should be taken forward if there are clear and obvious benefits in doing so.

There is an opportunity to simplify access charges for rail freight. We suggest a simple structure of Variable Charges (based on direct costs) and a Freight Specific Charge (a "mark-up" on any commodities that are able to bear such a charge). The Freight Specific Charge could incorporate the Freight Only Line Charge and the Coal Spillage Charge (if still deemed appropriate) into one charge. This would more closely align charges with the relevant legislation and make charges simpler for customers to understand.

We understand that a team of ORR staff are reviewing different parts of the incentives and charges regime. Freightliner urges the ORR to consider the level and structure of charges holistically, and not piecemeal. Not undertaking this holistic review led to considerable problems in the PR13 review when before intervention, the end result would have been a level of charges that would have been unaffordable for the rail freight industry. This sent shockwaves through the industry and we urge the ORR to avoid a repeat in PR18.

Incentive regimes

We note that it is the ORR's intention to consider only incremental changes to the possessions and performance regimes. We are concerned that this could include linking payments to passenger compensation, which would have the effect of making the performance regime even more unaffordable to freight operators. We are already concerned that the current regime is unbalanced in that the financial risk of causing delay far outweighs the compensation received from being delayed, and increasing the passenger payment rates would only exacerbate the gearing of the risk. Noting that there is no equivalent performance scheme for road we are concerned that this would discourage modal shift to rail.

Freightliner suggests that the benchmarking of Schedule 8 should be considered as part of the review. A longer term approach to setting benchmarks is needed that does not reward poor performance with a lower benchmark and good performance with a higher benchmark. In order to improve performance investment in assets is often required and the return on any such investment is likely to be well in excess of a control period. By reviewing benchmarks based on historical performance, investment is actually discouraged rather than supported.

There were considerable changes to the freight Schedule 8 in PR13 which resulted in a swing of payments of at least £10 million a year between Network Rail and the freight operators for exactly the same level of performance. In addition freight operator payment rates increased by 25% while the payment rates received stayed the same. There is now a considerable imbalance to the scheme where action and reward are not in sync.

A few examples over the last few weeks demonstrate this imbalance:

[REDACTED]

[REDACTED]

This would also remove the perversities of the current regime which incentives cancelling of trains rather than running them a few hours late, which is not the desired outcome of the freight operator or its customers.

Regulated Outputs

Freightliner urges the ORR to make sure that the outputs from the review enable Network Rail to become more customer focussed. There is a real risk that Routes will become more focussed on achieving the ORR targets to the detriment of focusing on what customers need, particularly as this is a new obligation on them. One of the major drivers behind the devolution concept was to make the routes more accountable to the operators and their customers, and this should be upheld as the objective throughout the periodic review process.

Freightliner is concerned that the current regulated outputs do not create a balanced scorecard. In our view there is too much emphasis currently on day-to-day performance and this is not balanced with getting more out of the network. There is no incentive on Routes to accept more trains or longer trains, and they are often reluctant to do so as at route level, as this is perceived as a performance risk.

The Freight team in Network Rail have devolved Freight Route scorecards, which have a balance of outputs, which we wholly support. We recognise that there are too many measures on the scorecards for each one to be a Route Freight regulated outcome but suggested that the total outputs from these scorecards could be used as the regulatory measure rather than continuing to use just the Freight Delivery Metric (FDM) as the only regulated freight output. The latter creates an imbalance by only focussing on freight performance but not on supporting wider business objectives.

The role of the Capacity Charge or the Volume Incentive is not currently appreciated within the Routes. This is a particular challenge for freight operators who rely on developing new business (even to retain overall business volumes at existing levels) and increasing efficiency by increasing train lengths. We have experienced several challenges with routes to obtain support for new flows and/or longer trains.

Chapter 4. - Our proposed approach to the review

The proposed plans to regulate at a route level are a major step-change in how Network Rail is regulated and will create the requirement for very considerable resource in the ORR, Network Rail and the operators. In particular it will be difficult for Network Rail route staff to become regulatory experts overnight and it should be accepted that there will not be a perfect result from the outset.

It is not yet clear how the Freight Route will interact with the geographical Routes, or how freight revenue and costs will be dealt with. We consider that this is a decision for Network Rail, rather than this being led by plans for its regulation, but note that this will have an impact on how regulation of the freight route is approached. As a principle though we would consider that the charges and incentive payments from freight should go to the Routes where the costs are incurred.

The Freight Route is not discussed in the ORR's consultation but careful consideration will be needed to decide what, if any elements of the Freight Route will be subject to regulatory outputs and how the requirements of a national business can be met by a series of route based outputs.

We understand that the government has decided to channel the network grant through train operators, although we have been advised that it is unlikely that any part of the network grant would be passed via the freight operators. This changing structure will have to be considered as part of the review, including the alternative mechanisms to deal with freight operators.

Another uncertainty is clarification from Government whether they do or do not intend to expose franchises to any change in access charges, to what degree and to what timescale. This affects how and to whom any changes to charges impact; currently changes to charges only impact on freight and open access operators. This is a key consideration in making changes to the access charges regime.

In decisions taken about route level regulation we urge the ORR to ensure that no perverse impacts on cross-border traffic appear. Nearly all freight trains cross one or more route boundaries and nearly all passenger operators have trains that operate into adjacent

routes. For example performance measures that encouraged routes to hold trains at the borders or not manage incidents holistically whilst they argue about responsibility for an incident would not be helpful or produce the right outcome for the customer.

Improving system operation

Freightliner believes there exists an opportunity to enhance the role of the national system operator and understand how, supported by a regulatory framework, the outcomes can be improved. The relationship with the system operator is one of the most important interfaces Freightliner has with Network Rail - it directly impacts on how we deliver for their customers. It is the glue that enables devolution and the safety net that balances the risk of devolving more power to the routes, for national operators.

Despite the importance of the national system operator to the wider industry and that it deliver Network Rail's core product - the timetable - it has not had the same focus as the Routes over recent years, evidenced by the high levels of staff turnover limiting the opportunities for operators to build strong partnerships with Capacity Planning teams. There is an opportunity to make the system operator a more fulfilling, rewarding and exciting place, creating a centre of excellence that will help to retain talent.

Freightliner recognises that Network Rail should set out how they will structure their company, particularly what activities are included within the scope of the national system operator and its interaction with the routes. Whilst we wait for this clarity it is more difficult to comment on the proposals for outputs from the ORR.

We do not believe it is very easy to set out outputs for the System Operator. We would caution against quantitative measures and urge the ORR to consider more qualitative measures. For example it is pointless measuring the number of bids dealt with within the laid down timescales if many of these bids have simply been rejected.

We would welcome the monitoring of delivery of improvement programmes and the "maturity" of key processes rather than a focus on analytical outputs. We caution against measures that focus solely on performance as in our experience this can lead to a fear of causing delay resulting in a reluctance to process new train bids and a lack of balance in making decisions. There should be recognition of the careful balance that a system operator will have to make between performance and capacity. We agree it would be helpful if there were more transparency about these decisions.

We believe that there should be a specific regulated target on the system operator related to freight efficiency - for example, in improving attained average freight train speed on the network. The current average is around 25mph. This means that expensive capital assets are not being used efficiently enough and journey times are not competitive with equivalent road journeys. Improving average speed will make rail freight more competitive with road freight, enabling modal shift and securing additional economic and environmental benefits off the railway balance sheet. In our view a 10% improvement in the average journey time of freight services would be a reasonable and attainable target.

Strategic Capacity

As part of the very important role of making the best use of existing capacity and also to ensure outputs of enhancement schemes are delivered, we would like to see the System Operator have a greater focus on the management of Strategic Capacity and on the identification of new Strategic Capacity on key freight corridors.

Identifying Strategic Capacity is very important for the future success of the rail freight industry as freight services operate in reaction to demand whilst passenger services operate in anticipation of demand.

By identifying standard freight paths in off-peak timetable hours on key routes when existing services are not timed, spare capacity in the timetable can be identified for freight. There are many benefits to identifying such capacity for freight:

- it gives confidence to customers and operators that capacity is available for growth and will support private sector investment in rolling stock, terminals etc.,
- it enables the timetable to be optimised at the planning stage,
- it ensures that the planned benefits from investments such as through SFN are realised,
- it creates a better base for future long term planning of infrastructure by enabling better understanding of what spare capacity is available for future freight services,
- where paths are identified they can be used for short term and very short planning - saving time for both Network Rail and planners as the paths are already validated against the rest of the timetable,
- the spare paths can be used as a performance buffer, allowing late running trains to be slotted into them - providing a pre-canned validated path, and
- if operators are confident that spare capacity exists on key corridors are being managed effectively they will be more open to giving up under-utilised paths in their own portfolio of access rights. This will help to create a virtuous circle of better-utilised capacity

We are working with Network Rail on the Strategic Freight Capacity work-stream but it is currently under-resourced and has not yet been given sufficient focus to enable the benefits to be reaped. A balancing metric that considers how optimally capacity is being allocated could support the strategic capacity process.

We would also like the system-operator to be incentivised to help operators introduce longer freight services. This has been a success story over the last few years thanks to the collaboration between Network Rail and freight operators but there is an opportunity for more. Longer trains reduce the number of physical services and releases capacity (as long as they are efficient). In particular where there has been investment such as the Strategic Freight Network scheme to increase train lengths from the Port of Southampton to the West Midlands/West Coast Main Line the system operator has a key role in ensuring the outputs from this considerable investment are delivered.

We will respond further in our response to the two system operator working papers.

Refining the framework for outputs and how these are monitored

We broadly support the ORR's approach to outputs. However we are concerned that as a national operator we may struggle to engage meaningfully with every geographic route in setting outputs. The requirements of national operators must be carefully considered so there is not an inherent bias towards the dominant local operator.

Increasing transparency around costs and improving incentives

Freightliner supports a better understanding in the industry of what drives infrastructure costs. This will enable more informed and transparent decisions to be made.

However, Freightliner does not agree that a better understanding of costs should lead necessarily to more disaggregated access charges. We urge the ORR to recognise the benefits of a stable national charging regime that gives confidence to customers and enables the logistics supply chain to make investments.

The overall aim should be for the Routes to work together to deliver the customer offering rather than force the customer into using a disaggregated system to satisfy a regulatory need. This seems to us to be the incorrect focus and would not deliver the optimum industry outcomes.

Given that over 90% of services are run to franchise specifications set by government we do not understand how setting geographic charges would have wide benefits to decision makers. The overall cost to the government would remain the same for franchise operations.

The RDG has clearly stated its position that the operators and Network Rail do not support geographically disaggregated charges. These would bring immense administrative complication for little benefits. The variable charges are already complicated enough (as they are disaggregated by commodity and wagon type) without also disaggregating them by route.

There is no IT system available that could measure the mileage of trains on each route and quickly produce a quote or a bill for a freight train. Such a system would take many years to set up and would involve a considerable cost. Route charging by say sections (c. 3,500 sections) means the current 2000 individual charges (national basis) would increase to c. 7m individual charges and require service (or individual commodity) codes by section alongside robust recording of activity (nominally kgm) within those sections. Complex rules would need to be set up about what happens when services are diverted due to engineering work; freight operators have many services a day that are diverted onto alternative routes. There would be perversities where busier routes would have a lower unit cost whilst rural routes with spare capacity would have higher unit costs.

Network Rail upgraded the BIFS billing system to TABS at the beginning of CP4. This was a billing system upgrade of capacity, not capability. It took 4 years to introduce and had many teething issues which took at least 1 year to work through whilst live billing. The system was late so was untested until the go-live. Given the scale of this change versus the new system that would be required for geographic charging there is insufficient time to successfully implement this in time for CP6. We would also challenge whether the development of such a system offers value for money, given the total income would remain the same.

More importantly for freight the competing road network is simple to use and does not have a road charging system. Such charges would potentially make rail less competitive against road on certain routes, and customers would be put off switching to rail because it was even more complicated to understand.

Incentives

We urge the ORR to consider charges and incentives related to them over more than one control period. In order to make incentives effective over the longer term there should be recognition of what has been delivered. Changing the incentives regime too frequently would likely punish good achievements whilst rewarding failures. This would likely undermine confidence in future incentives regimes going forward.

Freight operators have worked to deliver:

- Widespread introduction of track friendly bogies
- Considerable improvement in performance
- Reduction in coal-spillage
- Running significantly fewer trains on the network whilst growing tonnes moved
- Relinquishing more than 3,500 under-utilised paths

Yet despite these improvements freight operators face increases in access charges, including potentially a step-change increase in the capacity charge, the introduction of reservation/scarcity charges, and face the possibility of a further increase in Schedule 8 benchmarks and payment rates. This suggests that the link between operator action and the costs they face is not working. This failure to link action with reduced charges could significantly weaken the incentive on freight operators to pursue such measures in future. We therefore consider it essential that:

- Operators feel that they share in the gain from taking the 'right' action
- Incentives on operators are clear, deliverable and specifically linked to outcomes
- Incentives are not considered in discreet five year portions but over the longer term
- Support the efficiency of operators as well as of Network Rail

Understanding and allocation of costs

Although it is very important to improve the understanding and transparency of costs, we urge care on allocating fixed costs to different operators. There is currently a lack of data available and very limited transparency surrounding cost data. In our view the most important focus should be on understanding costs and what causes them. Allocation of costs would become a distraction at this time and should not be the greatest focus. In any event we cannot see how sufficient data will be available on a line by line basis, as contemplated in time for it to support the allocation of costs to different operators as part of the PR18 process.

As part of understanding costs it will be important to consider that different lines are in very different conditions, much of which is related to their historical status and investment profile going back over many decades. The lines that have historically had little investment may be more expensive going forward.

Some routes, for example may have bridges or tunnels that were built up to 190 years ago that now require complete refurbishment or replacement. Other routes may be built on challenging ground conditions where once in a hundred years major stabilising is required. Many costs, such as the above examples, may not even be known at a fixed point in time and are related to local geography and geology rather than being costs that can be directly compared between line sections.

Access Charges

It is clear that there is considerable attention given to the structure of charges, but not the level of charges. The level of charges is very important to the rail freight industry. The rail freight industry has consistently made the case for stable access charges, there is a risk that there will be much attention on the right structure of charges but not enough consideration about the overall level of charges.

During the PR13 process there was much discussion on structure of charges and it appeared that this was broadly acceptable to the rail freight industry. It was only once the costs behind the structure started to emerge during 2013 that it became apparent that access charges were going to double. Different types of charges were being considered separately, but not holistically. Once the costs emerged it was clear to the rail freight industry that

charges were set to double and a potential crisis was looming, but this was at a very late stage in the periodic review.

The negative consequences from this still persist, including an investment hiatus, retrenchment / building alternative non-rail capacity, significant risk premiums built in to costs (e.g. leases). We urge the ORR to not repeat this in the PR18 process. Instead we urge the ORR to consider the level of charges at an earlier stage in the review, and in particular to ensure that there is a holistic approach to the level of charges. An impact assessment of the holistic impact should be undertaken before any changes are implemented.

Supporting new ways to treat enhancements

Freightliner would like to see a greater focus on the delivery of outputs and value for money rather than a focus on delivering physical elements of projects. Network Rail should be encouraged to take a more flexible approach to projects that allows for more flexibility in delivering the required outputs.

We note that in the future it is much less likely that enhancements will be funded via the periodic review process so any new framework must work whenever projects are funded.

As well as a focus on large enhancements there should be flexibility to undertake small projects which deliver outputs and offer value for money. Using “funds” such as the Strategic Freight Network fund has enabled such smaller scale projects and we are aware that the Bowe review recognised the good practice from the governance of the Strategic Freight Network fund. We would urge the continued use of funds in CP6 to enable smaller schemes - these should be accompanied by clear criteria and the need to deliver clear outputs and value for money.

ERTMS and related technology

Replacement of the existing signalling systems with ETCS is part renewal and part enhancement, so careful consideration will be required concerning how this will be treated.

We also note that the ETCS project is unique in that part of the signalling equipment is required to be fitted to trains and this will have to be part of the consideration for funding decisions.

Chapter 5. - developing the high-level framework for the review

Outputs

As well as a regulated target to improve the efficiency of Network Rail we would like to see targets that improve the efficiency of operators, as Network Rail’s customers.

In particular, as well as a specific target to improve the average speed of freight trains, as mentioned above, we would like to see a specific target on Network Rail to increase freight train lengths. There has already been significant progress in increasing train lengths thanks to joint working between Network Rail and the freight operators and there are now 38% less freight trains running since the beginning of CP3, each moving considerably more product.

In order to continue to increase competitiveness versus road, freight operators need to deliver increasing efficiencies. A target to increase average train length by 7-10% over CP6 would seem achievable and realistic, especially given the fact that considerable investment has been made through the Strategic Freight Network fund to enable this e.g. Southampton to the West Coast Main line train lengthening scheme. This would ensure that Network Rail

are focussed on delivering the outputs from this government funded scheme.

One area where we would like to see improvements is in the publication of network capability on a digitalised map.

It is currently challenging to find out network information for particular route sections, in particular around gauge and maximum train length. The sectional appendix that is currently published is not user friendly, and although it has improved there are still inconsistencies between routes.

In terms of the actual network that each route is funded to maintain there should be better information and increased transparency. It is difficult to track changes currently. Alongside this we would like to see an improved Network Change process with better pre-engagement and which includes financial information about choices.

There is more opportunity for operators to work with Network Rail to help Network Rail save costs. We suggest that consideration is given to a Freight Efficiency Benefit Sharing scheme. This should be an upside only scheme as the withdrawal of nearly all operators from the upside and downside scheme in CP5 has demonstrated that operators feel that they cannot control Network Rail's costs sufficiently. However an upside only scheme could develop cost savings that wouldn't otherwise be achieved. Perhaps it should include limited types of assets, at least to begin with, in order to test the success of the concept.

There is a risk that in a more disaggregated system these areas are less coherent and consistent rather than more. It would be helpful if the ORR could play a role in encouraging consistency across routes in this area.

Revenue requirement and duration of CP6

We understand that there may be little opportunity to depart from a five year funding cycle to underpin Network Rail's base activities. We would like to see the ORR supporting a longer term framework for charges to operators, particularly those, like freight, that are not underpinned by arrangements with the Department for Transport. A 5 year cycle does not adequately support decisions to make investment in assets that have typical lives of over 30 years, nor does it enable customers to make decisions about changing their logistics chains to rail. Freightliner urges the ORR to set access charges for a period of at least 10 years, so that they are stable over two control periods.

There will need to be consideration of how the Freight Route will be considered alongside the geographic routes including income from access charges, and payments under Schedule 4 and 8, property and other income and any network grant. This is not highlighted in the ORR consultation but for the rail freight industry this is an important issue.

In the current structure there is a lack of clarity concerning how the money flow works between the freight department and the Routes. We know for example that the Capacity Charge is considered as track access income and flows through the Freight team, whilst the routes have to accept new traffic and don't receive the payments which are supposed to pay for additional delays caused by additional traffic on the network. In our view it would be best if the income and incentives flowed through to the Routes, where the costs are borne. However it is structured in future it is important that the structure works holistically and is well understood by the Routes, so that there are not perversities created.

Incentives framework

Freightliner does not agree that Schedule 8 should be changed to make it more Route based. As well as providing compensation to operators the focus of any performance regime

should be driving incentives to reduce overall delays to customers, based on the needs of customers, not on the needs of the Routes. The last thing that is needed is the Routes arguing over responsibility for delay and not focussing on fixing a problem. In our view the Schedule 8 regime should be designed around the service offering to customers, the routes must be encouraged to work together to deliver performance.

The Freight team in Network Rail have helped to improve the focus on freight performance by analysing data based on freight route corridors, which reflect the flows of business, rather than route boundaries. This has been a great success and is a model that should be built on rather than reversed.

Chapter 6 - Process and engagement

We are conscious that the detail of how the devolved routes will interact with the System operator and the Freight Route are not yet clear and that this structure will influence how the detail of route based regulation can be implemented.

Since the Periodic Review 13 process, which caused much disruption and uncertainty to the rail freight industry there has been a call for certainty and stability of access charges paid by freight operators. It is disappointing that this is not recognised in this chapter as an important issue. Once again we urge the ORR to make an early decision and to not make fundamental changes to the structure or level of freight access charges.

As decisions at many levels impact directly on freight operators' business we are keen to engage with every route over their plans concerning what and how is to be delivered. However such engagement is also a cost to freight operators in providing resource and travel and this has to be carefully balanced. It must be recognised that although we will try and best to engage with every route that a lack of engagement does not mean a lack of interest.



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17 August 2016

Dear Sirs,

GB Railfreight response to ORR 2018 periodic review of Network Rail CPR18I – Initial consultation

GB Railfreight Limited are pleased to have the opportunity to review and respond to the 2018 initial consultation on the 2018 periodic review (PR18) of Network Rail.

Context for the review

Enhancements & Renewals

It is evident that Network Rail has faced unprecedented challenges in rail demand in both the passenger and freight sector. There appears to be a major predicament within Network Rail when carrying out cyclical infrastructure renewals and large scale enhancement projects. It is quite clear that Network Rail has overestimated their ability to effectively deliver enhancements and renewals within the funding settlement agreed for CP5. GBRf would like to see a greater focus on delivering the enhancement schemes that offer the greatest benefit for growth on the network, within budget and on time during CP6. We do not feel that monetary fines for failure incentivise Network Rail to improve their performance.

GBRf would like to see Network Rail make a far better case for exploring the opportunities that it has within its gift and maximise the potential of the existing network. We do not believe that Network Rail has gone far enough to understand what the Timetable and Infrastructure can actually deliver when assessed with a far greater eye for detail and scrutiny of existing technical information which often outdated.

Track Access/Property Income

GBRf are highly concerned by any implication that Track Access Charges may be raised to fund the Network Rail shortfall in annual property income. Network Rail is supposed to be effectively using sites that were taken back under Project Mountfield to improve the efficiency of the network, benefiting both performance and capacity. GBRf do not see that there should be any link between Track Access Charges and Property Income.

Freight growth

It is important to pay attention to the fact that freight growth is not simply occurring in the intermodal sector, which has in fact not grown as fast as originally forecast. The aggregates sector has seen a major positive trend in the past 3 years. Importantly, multiple FOCs have won sizeable contracts in the aggregates industry with a clear demand for all of us to continue to develop additional traffic flows. New quarries have opened and will continue to be developed within the aggregates industry over the next decade. This is the current state of play.

HS2 is expected to demand 128 million tonnes of spoil to be removed during the build period, as well as a large number of trains conveying aggregate that will need to run into the build sites. The sheer quantity of freight paths that will be needed will have a huge effect on the operation of the railway. The rail industry does need to move away from a perceived obsession with the demise of the coal rail haulage market and focus their attention and future forecasting more accurately on the markets that will service greater tonnages and number of trains during CP6 (and into CP7), ensuring that markets that have been influenced by government policy, such as coal, are not priced off the network with more policy obstacles and increased charges.

Funding

GBRf fail to see where there is any real benefit for rail freight in a *'greater proportion of funding in England & Wales to be channelled through franchised train operators..'* In fact, it concerns us that some TOCs will effectively become route monopoly suppliers in more than just running passenger trains and stations. There needs to be a very clear business case for a reduction in system-wide costs and/or improved network performance if this is to become a consideration for CP6. Whilst GBRf believe that there is certainly a case for money to be spent far more effectively at route level, we would like to see whether there will be any 'upside' for rail freight. After all, FOCs are not franchise operators, we are private businesses with a focus on running more freight trains and making more money. GBRf would be willing to buy in to a route-level approach to joint improvement schemes provided that there is a very clear drive to improve network performance and increased capacity for both passenger and freight.

Focussing the review

Prioritisation

GBRf are mostly content with the priorities discussed in Section 3. However, a network that is more efficient by *'Taking cost effective decisions on operating, maintaining and renewing the network'* must take into account its customer's needs. The GRIP process is proving time and again to be a flawed mechanism with spiralling costs and poor project planning. This requires a thorough review by Network Rail and at present there is very little demonstrable value for money from infrastructure projects. How are Network Rail ensuring that renewal activity is being maximised in areas where infrastructure enhancements are being carried out?

We also believe that if the network is to become *'Better used'* then there is a large amount of work that needs to be done to make better use of existing capacity of which there is little evidence of this at the moment. It is often the case that latent capacity is realised when focus is applied to the task at hand by the relevant skilled teams. GBRf feel that there should be a focus on creating Working Timetable Working Groups for each route to better understand timetable development and how the train slots within can fit together more effectively, making full use of flexing rights and not just what Network Rail think is right. This will require input from all TOCS and FOCs. It is also vitally important to ensure that Network Capability is maintained to what it should be, this is particularly important for freight.

Whilst safety will always be a priority it is important that transparent safety data is made available to the industry for both scrutiny and the establishment of best practice. Network Rail is in a position where it can lead the way in safety excellence and needs to better engage both passenger and freight operators in this.

Incremental Improvement

GBRf agree that availability and reliability, as high-level outcomes that need to be delivered by Network Rail, does not require a thorough overhaul however we do not want the importance of these deliverables to be overlooked. Whilst the Schedule 4 and 8 regimes are broadly fit for purpose mechanistically, there are still elements that require real attention, such as increased triggers for recovering cost for disruptive possessions, which would realign compensation values with actuals costs, and establishing a fair and sustainable delay payment rate under the Schedule 8 performance regime. In this consultation there is very little that is discussed relating to Schedule 8 of the Track Access Contract but GBRf understand that there will be working groups that will scrutinise the charging and incentives mechanisms more closely. GBRf feel that much more could be by Network Rail to approach operators earlier in the process of possession planning to understand the impact of the possessions, with a view to agreeing a form of settlement that could negate the need for the large volumes of 'per train' claims under Schedule 4. The triggers within Schedule 4 and Service Variation and Cancellation also need to align more accurately.

Proposed approach to review

Route Level Regulation

GBRf are yet to see any real benefits from route devolution nonetheless route level regulation would make sense and therefore has our support. We continue to be concerned over duplication of work and inefficiencies that may exist across routes. Having a System Operator function may deal with some of the elements devolution that concern GBRf, as well as ORR regulating at that level and ensuring greater scrutiny. However, there is no view at present on how one route's programme of works could affect another's and how those routes interact to ensure maximum efficiency – we do not feel that there is a coherent cross-route structure. As a national operator we often find that what is important to one route may not be to another. If there was a consistency in delivery and measures at route level then that would go some way to satisfying GBRf that devolution is delivering what it was set out to do.

Comparison between routes

GBRf welcome greater use of comparison between routes and the publication of a scorecard. If each route is effectively going to act as its own business then we want to see transparency of the performance of each route and have a clear, settled line of accountability throughout the route. Our fear is that Network Rail do not want more business on their route and is far more concerned with the performance of existing trains. When we run new traffic on routes it often feels like it is assumed that these services will only impact the route performance negatively. GBRf would like to see this mind-set change and focus on new business being a way of increasing revenues on the routes and driving for greater volume incentives. Lastly, the Network Rail Freight Team is a freight avoidable cost. GBRf feel that the FOCs should therefore have a fair say in setting the objectives and priorities for that team.

NR supporting the shift in regulation

Culture change may be single most important driver in moving towards a network that maximises the deliverables outlined in the table 3.1. There does need to be a national approach to any change and it must ensure that the business can demonstrate the following; increased accountability, transparency and quality of available data. This would represent a shift towards embracing entrepreneurial spirit within the business and not allowing it to be constantly weighed down by layers of bureaucracy that continue to be prevalent within Network Rail. Maximising the resources that are on offer within the business and understanding how operators, such as ourselves, can share common goals and potentially work together to cut network costs and drive route revenue. GBRf would be keen, however, to understand the resources considered to be 'scarce' within Network Rail.

System Operation

GBRf is in agreement with ORR that there is very little incentive to support new business and increased capacity on the network. As we have referred to previously in this response, GBRf feel that much more can be achieved by using accurate data throughout the functions within system operation. If this accurate data does not exist, then there needs to be drive by Network Rail to challenge this and try to resolve the problem at the root cause. We feel there are too many occasions where Network Rail are trying to deliver work against legacy issues with lack of available or accurate data. This hinders the ability to run a greater number of longer, heavier freight services. By making the best possible use of the network, managed by a system operation function and not devolved to the routes, GBRf can see a real chance for Network Rail to support our business growth and reduce the costs that we sometimes incur from poor planning and network operation.

GBRf do support the range of approaches listed in 4.17, in particular transparency of its costs, assets and performance but there must be a clear set of agreed industry measures. We would be keen to greater understand what Network Rail's initiatives to improve its analytical and timetabling capability are? (4.18).

Refining the framework for outputs

FOCs and end-users undoubtedly see the benefit in being involved in setting outputs. However we need to be sure that there is long term, sustainable benefits in this. Much time and cost is already borne by operators in attending a plethora of meetings, groups and forums led by Network Rail. We need to be satisfied that our time investment in this will be met by Network Rail ensuring that our needs are listened to, understood and acted upon. Also we need clarity on what the expectations are from our involvement and what level of decision making is in place.

GBRf do see some benefit in having a more independent body scrutinising both the framework for outputs as well as the ongoing monitoring of these to ensure there is a consistent approach taken. This will allay our fear that Network Rail and a lead TOC can become too influential in shaping these outputs and not fairly considering all operators on the route.

Whilst we agree that we do not need to reform FDM, it is important to understand what the issues are that we face in trying to move to the next level for performance and continuing the trend of improvement throughout the freight industry. GBRf would like transparency on what issues may affect this, such as asset condition, and what is going to be done about these in the long term as we continue our performance push to get closer to 100% FDM.

Transparency of costs and incentives

There is no doubt that increases in track access costs could result in the loss of rail freight traffic to other haulage forms. We already see certain commodities heavily penalised and the profit margin for these traffics have substantially been eroded in some instances. Whilst GBRf appreciate that all users need to pay towards operating on the network we would like to see far greater clarity over these charges, how they are established and how the different charging mechanisms interact. GBRf support a simpler approach to charging as we do not feel that it is necessary to have such a multitude of charges to run a train. This will allow it to be easier to see what we are paying and what it is actually paying for.

We are concerned somewhat by the channelling of funds through train operators if we do not get transparency of exactly what benefit this will offer and how the money will be spent. GBRf appreciate that long term franchises may be in a position to spend money more wisely and offer greater improvements across that particular route.

GBRf do not support geographic charging as a national freight operator or any notion that this may be introduced. We believe that this will result in some areas of the network potentially becoming less

competitive than road. As discussed in the document (4.28) the priority should be to better understand what the cost drivers are and review routes where unnecessary costs are being incurred, then understand the impact of what savings can be made. There needs to be a fair approach to how operators are charged on the network and this must consider whether users are getting value for money. Freight operators are regularly in a position where the velocity of train paths are very poor, yet our track access costs remain the same even though we are incurring greater manpower costs than necessary.

GBRf would like to suggest a Track Access discount for train paths that offer poor velocity. This is an issue that the freight industry has had to suffer for many years. Our variable costs are far higher on flows with poorer velocity therefore we believe that this should be offset by a reduction in charging. We do not believe this balances itself out across the commodities, freight train velocity is poor on the whole. We are ensure whether this approach has been presented before and would be keen for this to be discussed during this review.

Schedule 8 values and benchmarks do require immediate attention, although as discussed the model is fit for purpose. This has already been discussed in working groups and the recent response to the review of Schedule 4 and 8 of the Track Access Contract.

Supporting new ways to treat enhancements

GBRf believe that the existing GRIP process is flawed and requires a thorough review of both the process and the huge contingency values that are ascribed to projects. We feel that throughout enhancement projects it has become endemic for the project team to have very little control over project spending. We welcome much of what has been proposed in 4.33 of the document.

We would expect Network rail to continue to be heavily involved in the enhancement planning process as we would expect them to be route experts and have access to most of the information that is needed to drive the enhancements, regardless of whether they are the delivery agent. GBRf do feel that Network Rail should publish all its commitments in one delivery plan, available in one central location.

Delivering the high-level framework for review

In figure 5.1 there is no reference to the Freight Route within the framework. Does this fall elsewhere in the framework? At present this is not clear.

Outputs

GBRf support a minimum number of key output areas as it falls in line with our repeated calls to keep things succinct and simple. All outputs must have targets agreed within the industry and we feel that these outputs must be measured to ensure that they are adding value to the function.

Managing uncertainty and change control

We do not feel that some of 'uncertainty factors' listed in 5.18 should exist. Network Rail must ensure that they are very clear on costs of key materials and, in particular, staffing costs. Scope creep and changing costs are clearly risks that manifest themselves during Network Rail project delivery and GBRf want to see this brought under control. Whilst potential events are unlikely to be predictable, we would assert that a suitable level of risk should be understood by Network Rail and mitigation measures either put in place, or be available in order to be implemented once an event takes place. These elements are in Network Rail's control but the framework does need to allow for some flexibility.

GBRf need as much long term certainty as possible, so ensuring a framework is flexible can be have both positive and negative effects. We do not want to see charges increased or a reduction in service

performance so would welcome any input that is necessary to offer greater levels of certainty to GBRf. We have long term contracts that cover multiple control periods and this certainty helps us to feel comfortable in signing up for longer agreements. If we do not have certainty over charging and service levels then we are unable to make effective investment decisions, which are often of benefit to wider network. In addition, where there is greater risk and control over costs, it is highly likely that prices will increase to reflect that which results in the end users of rail freight seeing FOCS as an unattractive option. GBRf certainly agree that there should be no attempt to alter track access charges outside of a periodic review. A determination 'reopener' does make sense but it must not be linked to agreed charging and incentive mechanisms.

Out/under-performance at a route level

GBRf agree that we must have strong incentives in place to constantly drive Network Rail to outperform their income targets. It is important to ensure that they are incentivised to outperform as opposed to being punished for under-performing. New business must be seen as an opportunity to increase income as opposed to a threat to income. As previously mentioned, we believe that most routes operate in a way that is mostly fearful of new rail freight business.

GBRf are willing to remain involved throughout the PR18 review process and welcome the chance to offer our views throughout this important period for the rail industry. In addition, we would be keen to sit down with ORR to discuss in more detail our thoughts and proposals outlined in this document should you seek further clarity. We look forward to responding to further consultation documents in due course.

Kind regards

Duncan Clark
Head of Strategic Development

Response to ORR's initial consultation on the 2018 periodic review of Network Rail (PR18)

This pro-forma is available to those that wish to use it to respond to our consultation. Other forms of response (e.g. letter format) are equally welcome.

Please send your response to pr18@orr.gsi.gov.uk by **10 August 2016**.

Full name	Chantal Pagram
Job title	Head of Rail Policy
Organisation	Go-Ahead Group
Email*	
Telephone number*	

*This information will not be published on our website.

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 experience running complex and challenging rail operations; currently running three major rail franchises: 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 the ORR's 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 contributed to the industry response prepared by RDG and this is intended to supplement that response.

Chapter 2: Context for the review

We invite stakeholders to comment on whether they agree with our view of the context for PR18 or whether they consider there are additional significant points. (If the latter, please explain how these might affect the review).

We agree with the context of the review described in the initial consultation, in particular the focus on addressing growing demand on the network, improving operational performance and ensuring appropriate industry incentives are in place to drive the right behaviours.

Chapter 3: Focusing the review where it can have most impact for passengers and freight customers

We welcome views on the proposed relative priorities for the review, as well as any other areas that should be prioritised (in which case, we would particularly value views on what should not

be prioritised as a consequence).

We agree that the high level outcomes proposed in the consultation are the right ones; however Network Rail must become more customer-focused as a business and be responsive to the needs of the end users i.e. the passengers. Operators are best placed to work with Network Rail to define what passengers want and propose plans on how to deliver it. Network Rail should be incentivised to focus on the needs of passengers and measured against its performance in this area. These incentives and targets should be agreed by the Operators.

We agree with the aim for CP6 of “a safer, more efficient and better used railway, delivering value for passengers, freight customers and taxpayers” however we believe the reliability of the network should also be a critical component.

Chapter 4: Our proposed approach to the review

We would like to know if you agree with the overall approach that we have set out for the review.

We would also welcome additional suggestions and proposals for how we might adapt our regulation to the current context. It would be helpful if you could arrange your comments around the headings in the chapter (set out below) where these are relevant to your response.

Route-level regulation

We support the principle of greater Route-based regulation, however in order for this to work effectively; Network Rail needs to do more to devolve financial responsibility from its centre to its individual Routes.

It is also important to take into consideration that Network Rail’s individual Routes vary, sometimes considerably, in terms of characteristics and challenges. Whilst there needs to be some consistency in terms of benchmarking to enable an effective comparison of efficiency and outputs between Routes, there also needs to be a recognition that customer and end user priorities may differ from Route to Route and between operators.

Similarly, it should also be recognised that within one Route there may be inconsistencies in the service Network Rail provides to its customers and measuring performance at a Route level may disguise weaknesses in some areas.

System operation

We agree that regulation should identify the System Operator activities that Network Rail undertakes and place more focus on these functions. We believe this is a key priority for PR18 and we will separately provide more detailed feedback for this area in our response to Working Papers 2 & 3.

In general, we agree that the approaches and the issues presented in the consultation documents are the most material ones pertinent to System Operation; however a critical issue which we believe has not received sufficient attention is the capability of Network Rail's train planning function. This is an area of increasing concern as the lack of continuity and experience within the central train planning team impacts our ability to operate a robust service which maximises the infrastructure available. We strongly believe that Network Rail resourcing and capability in this area requires specific focus as part of this review.

The fundamental misalignment in incentives between Operators and Network Rail must be addressed and we agree that greater transparency is vital, not just in terms of performance but also in terms of processes and procedures. This is particularly relevant following Network Rail's reclassification.

Outputs & monitoring

We welcome the proposal to involve Operators in setting outputs, particularly with regard to setting challenging operational performance targets. We also support the shift in focus to ensure the experience of passengers is taken into account in measuring performance. Many Operators now have contracted NRPS targets specified in their Franchise Agreements and given the influence Network Rail can have on the achievement of these benchmarks, it would seem appropriate for Network Rail to be measured against the same or similar targets.

We have been involved in the preliminary work undertaken to develop Route scorecards and we support the overall principle. Engagement between Network Rail and Operators has however been inconsistent; in some areas we feel there was not sufficient consultation before publishing scorecards and we would urge a more collaborative approach going forwards. In our response to Working Paper 4, we will provide more detailed feedback on the proposed approach to regulated outputs and monitoring.

Charges & incentives

We believe there is a fundamental misalignment in incentives between Operators and Network Rail. Some of this can be attributed to structure, due to Network Rail as the infrastructure owner and maintainer, being 'one step removed' from the end-users. As a result, the contract of carriage sits between the Operators and passengers, yet Network Rail can influence passengers' experience significantly.

As well as passenger satisfaction, the misalignment of incentives manifests itself in terms of delivery of minor infrastructure projects, such as line speed improvements which present little incentive for Network Rail due to the lack of perceived benefit in comparison with perceived risk and cost.

We welcome the opportunity to engage further on this issue as the review progresses.

Approaches for enhancements

There are many benefits to the revised flexible approach for enhancements in CP6 which sees

the industry provide Initial Industry Advice for choices to be considered and purchased at any point in the Control Period. This could avoid the current issue where Control Period dates represent an artificial barrier in terms of project delivery. In our experience, for some projects funding has been lost and the project subsequently cancelled as delays to the project resulted in the scheme slipping beyond the Control Period end date.

Conversely, the more flexible format could make strategic planning more difficult for the industry, in the absence of a clear steer from the Government in terms of where it is likely to invest it is not possible to plan an informed pipeline of projects. Significant problems have already been experienced in CP5 due to an irregular schedule of major resignalling projects being planned for commissioning. This resulted in Network Rail's contractor supply chain being unable to resource the initial schedule, which subsequently proved to be undeliverable.

Also, we would wish to avoid the difficulties experienced at the beginning of CP5 whereby some relatively new projects were insufficiently developed to allow the ORR to be able to accurately assess their benefit. In these cases an informed project pipeline would be essential.

Finally, we strongly support the retention of ring-fenced funds (such as NRDF) for CP6. This is one area where devolution of funding to Route level can work successfully, provided that adequate governance arrangements are put in place.

Chapter 5: Developing the high-level framework for the review

We welcome views on how our high-level approach could be implemented and on the potential framework set out in chapter 5. As part of this, we invite thoughts on what it is practicable to achieve in PR18 and in CP6, and what might be more realistic to achieve in the subsequent periodic review.¹

We would also welcome any further suggestions and ideas on how we might improve how we regulate Network Rail.

We support the proposed framework for the CP6 determination. We agree that given Network Rail's recent difficulties, efficiency targets should reflect a realistic level of challenge for what they might reasonably be able to achieve in practice.

When considering assumptions on income potential from disposal of assets, we would urge caution to ensure railway land, which may be needed in the future to cope with demand (such as for stabling or car park expansion), is not sold off in haste simply to achieve efficiency targets.

¹ You may also wish to read and comment separately on the working papers that we will publish following this consultation document.

Chapter 6: Process and engagement

We would be grateful for comments on the proposed phases of the review, including any views on the [draft timetable](#) and our proposed approach to engagement.

We also invite high-level views on the process for customer engagement by Network Rail's routes and the system operator to inform their business plans, in terms of what is achievable for this review.

We would also welcome any views on how Network Rail and train operators would like to engage and be involved in the implementation process for PR18 and any thoughts on the process relating to Network Rail's right to object to our determination.

It would be helpful to have more clarity on the programme between now and the publication of the draft determination in 2018, including dates when key decisions will need to be taken, to allow us to plan our engagement appropriately.

Any other points that you would like to make

Thank you for taking the time to respond.

**Office of Rail and Road
Periodic Review 2018 (PR18) Initial Consultation, May 2016
Historic England Response**

Historic England is the Government's statutory adviser on all matters relating to the historic environment in England. We are a non-departmental public body established under the National Heritage Act 1983 and sponsored by the Department for Culture, Media and Sport (DCMS). We champion and protect England's historic places, providing expert advice to local planning authorities, developers, owners and communities, to help ensure our historic environment is properly understood, enjoyed and cared for.

Having considered the consultation Historic England wishes to make the following points:

1. The historic importance and value of the United Kingdom's Railways in promoting local distinctiveness and stimulating economic growth.

Our railways are of major international importance: first developed in the United Kingdom, the concept was then exported worldwide and this legacy sits alongside cathedrals, churches, town halls and other civic buildings, as an essential part of the country's heritage. This historical significance is nationally recognised by many of the buildings and structures afforded statutory protection by listing and scheduling, but there are many others that are of considerable local interest and valued by the public.

Historic railway stations often act as important gateways to cities, towns and local areas, helping to create a strong sense of place. An increasing number show how their successful regeneration has acted as the catalyst to enhancing the wider area, providing new and improved commercial opportunities, together with services which help to support and serve the local community.

2. Early consultation with heritage specialists can help to inform development, enhancement and maintenance projects, there avoiding potential problems and delays later on.

Historic England is involved in commenting on major development proposals and works to designated structures across the railway network, and providing strategic listing advice, particularly in relation to the routes affected by electrification, in partnership with Network Rail. Where development, enhancement and maintenance projects are based on a full and informed understanding of the heritage assets and their significance, the blend of the new and the old can be visually very powerful and enhance the passenger experience. This can be seen at Kings Cross and St. Pancras which exemplify our approach to ‘Constructive Conservation’.

Early consultation with the relevant authorities (including Historic England and local authority conservation advisors) is the key to success and can avoid potential delays later in the process. However, it should be noted that the majority of modernisation work on England’s historic railways (excluding designated buildings and structures) falls within existing long-established permitted development rights and does not require permission.

3. The need to comply with the *Protocol for the Care of the Government Historic Estate* and having access to appropriate expertise (Questions set out in Chapter 4 of the consultation).

Having been reclassified as a public sector organisation in 2014, Network Rail (and the franchise operators) should adhere to the *Protocol for the Care of the Government Historic Estate* which has been developed by Historic England and the Department for Culture, Media and Sport (<https://content.historicengland.org.uk/images-books/publications/protocol-for-the-care-of-the-government-historic-estate/careofgovernmenthistoricestate-2009.pdf/>).

This sets out best practice for the management of heritage assets in public ownership and includes, amongst other things: nomination of a heritage officer, to ensure the significance of any heritage asset is taken into account when planning change, commission regular condition surveys, implement a planned programme of repairs and maintenance, ensure that the design quality of any new work enhances the historic environment and the preparation of biennial conservation reports.

So far as we are aware, Network Rail does not have accurate information relating to the heritage assets in their ownership and this could create potential difficulties when planning and implementing future projects. Other agencies are further ahead in mapping their heritage assets and maintaining information about their condition, and we are prepared to help Network Rail in this regard.



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HistoricEngland.org.uk

Please note that Historic England operates an access to information policy.

Correspondence or information which you send us may therefore become publicly available.



The organisation would also benefit from having its own in-house expertise and Historic England would support Network Railway in developing this to better manage its heritage assets and setting. This would have the potential to reduce costs and delays in the planning system where Network Rail's investment decisions affect the historic environment.

4. Environmental obligations and monitoring performance (Questions set out in Chapter 5 of the consultation).

The consultation only makes fleeting references to the environment and there is no consideration of the environmental obligations or performance of Network Rail. As a minimum, we would expect to see a firm commitment in Network Rail's Business or Delivery Plan to meeting the requirements of the *Protocol for the Care of the Government Historic Estate* together with a statement on how this is to be achieved. Such a commitment has already been made by Highways England in its *Delivery Plan 2015-2020* (2015), and again, we can help both Network Rail and the Office of Rail and Road (ORR) in developing this. We also suggest the ORR should consider a range environmental performance measures as part of its regulation which are similar to those that have been put in place for Highways England.

5. Future Engagement (Questions set out in Chapter 6 of the consultation).

The suggested environmental obligations and performance measures could be considered as part of the specific working groups or ad hoc workshops described in paragraph 6.16. Similar events have already been held by the ORR to discuss Highways England's performance in relation to its environmental commitments and plans. This might perhaps involve the relevant government departments (Department for Environment, Food and Rural Affairs and Department for Culture, Media and Sport), the statutory environmental bodies (Historic England, Natural England, Environment Agency, Forestry Commission) together with other key bodies and organisations.

Historic England would welcome the opportunity to discuss the content of this submission in further detail if this would be helpful and looks forward to working with the ORR and Network Rail in developing the outputs for Control Period 6.

Shane Gould
National Infrastructure Adviser
Historic England
10 August 2016



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IOSH Railway Group Committee - Comments on ORR Consultation Document

Periodic review 2018 (PR18) - initial consultation

The IOSH Railway Group committee welcomes the opportunity to comment on the proposals for PR18. We agree with the overall approach that the aim for CP6 should be: *'A safer more efficient and better used railway, delivering value for passengers, freight customers and taxpayers in control period 6 and beyond'*, (paragraph 3.22, page 17 refers).

In our view the significance of safety in the aim is appropriate. However, the proposed framework does not appear to clarify the mechanisms which will ensure a balanced approach to risk and cost decisions as envisaged by the legal requirements of reasonable practicability.

For example, the framework described indicates that...

- It ...'focuses on achieving an efficient cost of operating, maintaining, renewing and enhancing the network for current and future users and tax payers, while protecting the ongoing safety of the network', (page 4 refers, reinforced in paragraph 3.18). In this case safety does not appear to be integral to investment decisions, but something which will be catered for afterwards.
- '....safety will continue to play a significant role in determining our approach', (paragraph 3.14 refers). However, how this will be achieved is not explained, and there is no work stream or working papers which will further clarify the approach.
- The approach aims to encourage Network Rail to: 'ensure the ongoing safety of the network', but not to ensure the reduction of overall system hazard and risk as part of the programme.

We recommend that further thought is given to clarifying how safety issues will be considered as an integral part of the framework so that it is given equal emphasis as part of investment decisions for PR18'

If you wish to discuss these issue further please contact me.

David Porter

On behalf of the IOSH Railway Group Committee

Dear ORR

I note that one of the topics on which you are seeking comments in your current consultation on PR18 is "improving how the experience of passengers is reflected in output measures and monitoring."

As it happens, I have recently made a submission on this subject to the current inquiry by the House of Commons Transport Committee into "Improving the rail passenger experience", and I reproduce this below, as I think it is equally apposite in the context of your forthcoming review.

It does, however, require some qualification in the context of ORR's review of Network Rail. Quite properly, for your purposes, disaggregation by NR "routes" is important for purposes of comparison and benchmarking. But these routes are internal administrative units, largely irrelevant (and invisible) to the travelling public. So it is important that monitoring data should also be available at (or capable of disaggregation to) the level of the specific services- and, ideally, journeys - made by actual passengers.

Yours

John Cartledge

Note to House of Commons Transport Committee inquiry into Improving the Rail Passenger Experience

One of the subjects on which the Committee is inviting evidence is "performance measures in relation to passenger experience". I have no doubt that it will receive copious technical evidence on the respective merits of the Transport Focus and Which? survey methodologies, and there is no need for me to add to that debate. But there is one particular issue which I would like to bring to the Committee's attention, which arises from the industry's own published data (see <http://www.networkrail.co.uk/about/performance>).

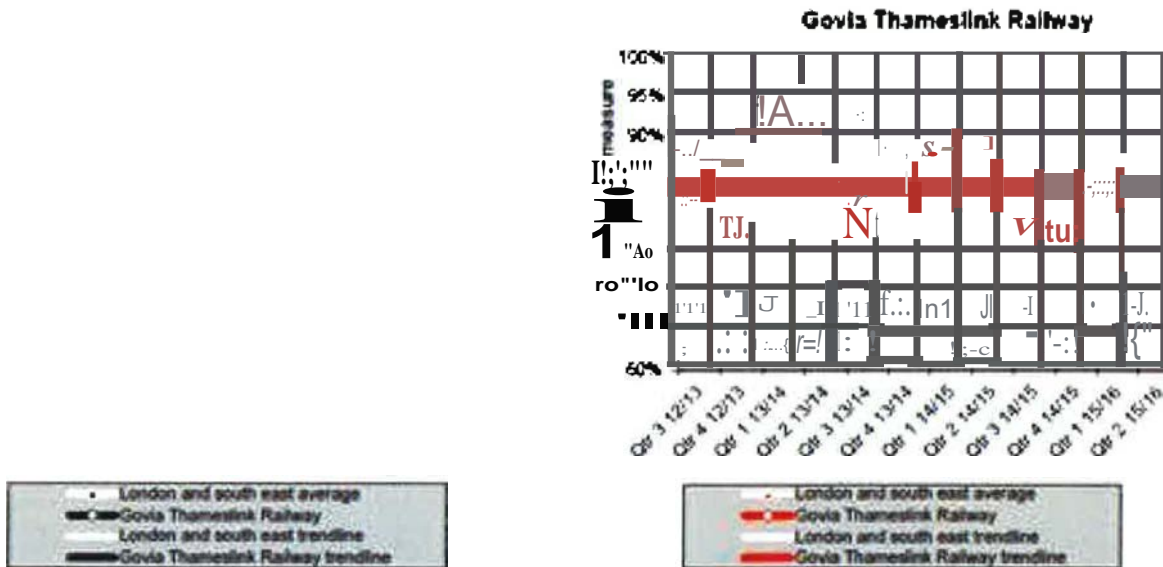
These data are primarily concerned with the performance of the train service in relation to the advertised timetable. They record what proportion of trains run (serving all planned stops and arriving not more than 30 minutes late) and, of these, what proportion arrive at their ultimate destination "on time" (i.e. within 59 seconds) and not more than 5 or 10 minutes late (depending on whether the service is deemed to be a local or long-distance one). Information is also available, at a fairly broad-brush level, on the causes to which "lost minutes"- or sometimes simply the organisations to which blame – is/are attributed. An "average lateness" statistic is also produced, but this relates only to passengers alighting at unspecified "main" stations, and only at sector (long distance/London & south east/regional) rather than operator level. All of these data are disaggregated by the rail industry's own internal 28-day accounting periods, rather than units such as weeks, months or calendar years which would be more intelligible to a general audience.

Such data are no doubt valuable to industry insiders, but I have frequently attended public meetings at which their use by train company representatives has been criticised from the audience because they do not relate directly to passengers' own experiences. This is for a number of reasons, e.g.

(a) they are averaged over long periods of time

- (b) they relate to the planned timetable on the day, which can be changed at short notice at times of disruption without passengers being aware of it
- (c) they are averaged over all of a train company's many operations
- (d) they only measure timeliness at the ultimate destination, rather than intermediate points, and there is a widespread belief that ultimate timings are "padded" to disguise irregularity
- (e) they do not distinguish between peak and off-peak services, or (generally) take account of variable train loadings, and they thus fail to reflect the performance as most passengers actually experience it.

London TravelWatch has gone some way in attempting to redress the situation by publishing separate all-trains and peak-trains data, and comparing each company's performance with the average for all companies in the same sector of the industry. The sample charts below (for one train company, picked at random) are taken from the quarterly National Rail Performance Report which can be found on its website.



The left-hand chart (with black lines) refers to all trains, while that on the right (with red lines) refers to peak period trains in the "with-flow" direction only. The three-year trend lines help to show the underlying performance by eliminating the regular seasonal fluctuation to which all companies are subject, with autumn/winter performance routinely being inferior to that in the spring/summer. It can immediately be seen that peak performance is below that for all trains, that this operator is doing worse than the average for its sector, and that the long-term trend is adverse.

But despite its noble efforts, London TravelWatch can do no more than repackage the data which the industry supplies, so these charts are still subject to most of the shortcomings I have cited. It is not necessarily the source to which most passengers (or journalists, or even MPs) would gravitate for such information- and, in any event, its remit is restricted to the London area.

I would like to suggest that your Committee should invite the industry to reconsider its approach to producing performance data from first principles. I think it needs to meet three criteria. One is that the data should be sufficiently disaggregated (by time and geography) for passengers to be able to find statistics that are representative of their own journey experiences. Another is that it should be based on passengers' journeys, not those of trains – i.e. that it should track outcomes rather than outputs. A third is that it should lend itself to easy citation in the mass media with minimum scope for journalistic misrepresentation.

There is room for much debate about what the form and content of improved reporting might be, and the advent of on-line train reporting sites opens up scope for tailoring it much more closely to actual passengers' journeys. But at an aggregate level, to track industry-wide performance, I think there is much to commend in the approach used by London Underground. This uses a statistic called excess journey time, which is

calculated for a representative "basket" of journeys made by a representative set of passengers. For a predetermined set of journeys (which can be for any or all parts of the network, and any or all times of day or days of the week) the operator calculates how long the journeys would have taken to make in reality and compares this with the length of time required if all of the relevant trains had run exactly in accordance with the working timetable. In essence, it is attempting to answer the question "how well did we do in getting our passengers there in the time we told them to expect?"

The subject matter of this note is complex, and any discussion of it can easily become highly technical. My purpose in writing it is not to attempt to offer a fully worked-out solution to the issue of refining "performance measures in relation to passenger experience". It is simply to suggest that current industry practice in reporting punctuality, which has been largely unchanged for two decades, is no longer good enough and that there is scope for improvement. A recommendation from your Committee along these lines could help to trigger a valuable discussion between the industry, its governmental sponsors and passenger representatives on the best way forward.

*John Cartledge
13.5.16*

As an MP, I regularly hear from constituents who are unhappy with Weston's local train service. Although there have been improvement in recent years, we still have frequent problems with poor reliability, overcrowding and poor accessibility for disabled passengers. And although some of these problems are caused by success, as passenger numbers have climbed and trains provide a greener alternative to cars, rail customers tell me they feel frustrated and powerless by the very slow pace of change, and the one-size-fits-all nature of collective, regulated and bureaucratic decision-making processes which doesn't allow service providers to react nimbly or sensitively to changing or varied customer needs and tastes.

More broadly, the fundamental problem is that not only does Network Rail own the network monopoly of the rail network, but Train Operating Companies also have local monopolies awarded through the franchise system for a particular set of routes. This makes them inherently and inevitably less sensitive to customer demands and concerns than any organisation which knows it will lose revenue to rival providers within days if they don't react rapidly and effectively to what consumers want. And it is a problem which even the most dedicated and talented regulator cannot mitigate completely or consistently; even with all the bureaucracy of passenger advocacy forums and license conditions, good regulators will inevitably be imperfect, cautious and lagging mirrors of customer needs.

The most effective way to make rail services and their collective providers more competitive and responsive to consumer demand would be to allow consumers to choose the best deal from competing train operators for their journeys. The rare exceptions to the current franchise system (for example where local commuter service operators share tracks with high speed intercity operators, or with freight trains) show this is feasible, and that consumers could have a choice of train operators if politicians and regulators allowed it.

This approach could be extended by auctioning the right to run individual services on Network Rail's tracks, rather like airport take-off slots. Network Rail's income would depend on these rack slot auction revenues, giving them a continuous, strong incentive to maximise existing capacity and create more of it, targeting track improvements investment at increasing capacity where it is most economically efficient. The auction process would discover the true market value of each slot (and so also of capacity improving investments) more effectively than even the best regulator could manage, and ensure it stayed up to date over time more effectively too. Train operators would have to compete with each other for passengers on rival services using the same route, giving customers more flexibility and choice over the timing, cost and style of their travel as well as different reliability and overcrowding records to compare and prefer as well.

Part of the justification for the existing franchise system is that some routes (mainly lightly-used rural ones, or commuter services) are held to be uneconomic, so the franchise bundles them with more profitable ones in a blended package which train operating companies must provide. But this gives train operators little incentive to invest in the unprofitable services and is inevitably highly imprecise and inefficient in identifying the true potential value of each service, and at allocating resources accurately as a result (for example by allowing Train Operators to create new routes using connecting services which they can't access or bid for easily under the existing franchise system). The auction system should also allow negative bids (i.e. for the amount of subsidy which a train operator would require to run a service) which Ministers could then agree or refuse to provide if they felt there was a social or economically-justifiable whole-system benefit (for example by taking commuter traffic off overcrowded roads, or serving isolated rural communities).

For these changes to work, train operators will need to be able to form trains made of rolling stock which they have chosen for its capacity and levels of passenger comfort, performance and reliability, which won't be possible under the current system where rolling stock allocations are restricted and controlled by Government Departments. Rolling stock companies are now very large and financially stable firms underpinned by strong balance sheets, equivalent to commercial aircraft leasing firms, so central Government guarantees and controls have become an unjustifiable taxpayer liability which is no longer needed. The rolling stock firms could do a better job for rail passengers and train operating companies if they were allowed to provide whatever train sets the industry required, without requiring political or regulatory approval first.

The effect of these changes on rail governance and regulation would be profound. ORR would retain its important safety regulation functions, and would replace most of the economic regulatory responsibilities with ensuring that the track slot auction process was run efficiently and fairly for all would-be train operators. Network Rail would receive zero direct subsidy (except perhaps for building strategic new routes like HS2 or Crossrail) but would otherwise get its revenue from track slot auctions. Central Government's role would be far smaller too, limited to decisions on funding strategic new routes, and whether to subsidise uneconomic ones according to the subsidy discovered through a reverse auction or not.

2018 Periodic Review of Network Rail - response



The Public Transport Consortium (PTC) is a special interest group of the Local Government Association, representing the interests of shire counties and unitary authorities in England and Wales.

The Consortium aims to:

- act as a forum for discussion and promotion of public transport issues affecting local authorities outside metropolitan areas;
- promote the exchange of experience and good practice between member authorities and in liaison with other bodies;
- advise appropriate committees or other executive bodies of the LGA on public transport issues;
- represent interests of member authorities to Government, the Local Government Association, operators and other organisations involved in public transport; and
- provide advice and guidance to member authorities concerning Passenger Transport policy and operations

Consortium members fully support a safer, more efficient and better performing railway, delivering value for passengers, freight customers and taxpayers. The rail network is essential to our members to support economic growth and provide access to essential services.

The Consortium supports Network Rail's strategy of increasingly devolving responsibilities to local managers who are better able to work with local authorities, communities and businesses. Therefore, the proposal of the Office of Rail and Road to regulate Network Rail in a different way looking separately at its national and local responsibilities receives our support. The six high level outcomes for Network Rail should be the priority as outlined:

1. More efficient – cost effective decision making about operating, maintaining and renewing the network by devolving authority to each of the routes
2. Better used – improving performance and greater utilisation of the current network by focusing on a route-based rather than a function-based delivery policy
3. Expanded effectively – delivering projects and enhancements in a safe, timely and cost effective way
4. Safer – ensuring safety standards are maintained and enhanced as utilisation increases

Working in partnership with the Local Government Association as a Special Interest Group



5. Availability – possessions must minimise the impact on users by requiring routes-based authority for traction power, crewing, materials and timing
6. Reliable – delays and cancellations must minimise the impact on users by devolving to each of the routes authority over possessions

The proposal to consider five high level areas is supported – regulating at route level, improving the regulation of system operation, refining the framework for outputs and their monitoring, increasing transparency around costs and improving incentives and supporting new ways to treat enhancements.

The approach adopted recognises greater political devolution of transport decision making by the start of Control Period 6 and improved technology by 2024 will be available to deliver growth and greater efficiency.

The opportunity to change the regulatory approach in setting efficiency assumptions and monitoring financial performance is supported: ensuring the most efficient use is made of the network is crucial, and proposing to focus work in this area is the right priority.

Thank you for the opportunity to comment on the Periodic Review of Network Rail and we look forward to closer engagement with the Office of Rail and Road.

Railway Markets and Economics
Office of Rail and Road
One Kemble Street,
London, W2B 4AN

Our Ref:
Your Ref:

August 2016

Dear Sir/Madame,

2018 Periodic review of Network Rail – initial consultation

Thank you for the opportunity to comment on this.

London TravelWatch is generally supportive of the approach that you propose, particularly in relation to devolving more responsibility to and regulation of Network Rail at route level. We caveat this, with the important proviso that the current route structure does not necessarily facilitate a co-ordinated approach to London as a whole, with passengers often using a variety of different Network Rail and Transport for London (TfL) routes and services to make their journeys. At times of disruption, whether planned or unplanned this makes co-ordination particularly difficult, and means that planning journeys across London can often result in disjointed and longer journeys. It also present problems for train operators who use a variety of different Network Rail routes, as policies and practices can vary between routes.

There are also significant needs in terms of information, responding to economic and demographic changes in the capital, handling major local housing developments and the development of best practices across different lines that in our view will require co-ordination across different parts of the London network.

Devolution of responsibility for some rail services to the Mayor of London means that there is now a business need for Network Rail to manage its assets, and forward plan with TfL in line with the needs of London based concessions or franchises. This need can be expected to increase in future, though it will not necessarily be a smooth progression nor will it necessarily cover all lines within the capital. This in our view points to the need for 'guiding mind' that can take a London wide perspective over and above that of the route level.

Managing these pressures, which at times conflict, is not going to be easy. There are arguments both for greater national co-ordination and integration, and for stronger local empowerment. There may be a need for a degree of matrix working but it will still be very important to maintain clear lines of accountability, and effective criteria for managing trade – offs where interests conflict. The key tests are, or should be, what works best for passengers now and in the future.

One important building block will be the handling of responsibility for the London travel area. A major element here should, be a strengthened directorate within Network Rail focused on their relationship with TfL, and to which there must be route level accountability.

Therefore, these concerns must be reflected and recognised, in the way ORR proposes to regulate Network Rail at route level, recognising the importance and complexity of travel within London. ORR also needs to recognise that some routes have better track records of managing their maintenance regimes, investment decisions and prioritising or controlling

their planning and timetabling processes than others. In this respect the Sussex and Kent routes have been particularly problematical in recent years and failures on these routes (also recognised by the ORR) have caused substantial detriment to passengers as a result.

Context of the review

We note the emphasis that the ORR places on the growth in demand for passenger and freight services, and on the role of technology in improving the operational efficiency of the rail industry. However, our view is that these elements of themselves, cannot provide the full answer to the industries problems, and that there needs to be an increased emphasis on basic railway operating disciplines (such as train dispatch from stations), and on regular inspection and maintenance of assets (such as track, signalling or electrification).

Focusing the review where it can have most impact for passengers and freight customers

We agree with the proposed high level outcomes delivered by Network Rail, but would add an extra outcome of 'A network that is **responsive** to the needs of passengers, changing demand and the aspirations of wider stakeholders'. This is necessary because at present Network Rail seems to operate in a manner that is insulated from these needs, quite rigid in its approach and heavily resistant to ideas and ways of working outside of its' industry processes. This is particularly problematic where train operators with short limited term franchises are unwilling to invest in or 'push' schemes that have long term benefits, but which they would not make a financial return on during the short length of their franchise, or simply because it had not been explicitly specified in their franchise agreement.

We agree that it is important to get the most out of the existing network, particularly by better timetabling and regular reviews of timetables outside of the franchising process.

We agree that where government or other bodies are specifying, funding and scrutinising enhancements then these should be separate from the periodic review. However, mechanisms must be maintained and enhanced to ensure that Network Rail do not over inflate the costs of enhancements in such a way as to make them unaffordable.

We agree that there must be a stronger link between the compensation arrangements that operators receive from Network Rail for poor performance and the amounts of compensation made available to passengers.

A focus on regulating at a route level

We support the focus on route level regulation subject to the caveats mentioned above, and the proper engagement of the routes with stakeholders such as ourselves. At present Network Rail are good at consulting us as a passenger body on how they plan to communicate their plans, but not on devising those plans in the first instance. This needs to change, as we constantly have to remind Network Rail that we are a statutory consultee that they must consult with, not just tell us what they are doing.

Improving system operation

We agree that there needs to be a set of performance measures, outputs and financial incentives to regulate the system operator function. This should include minimising timetable

conflicts, impact on numbers of passengers and ensuring that where there is a statutory requirement to provide a service that train paths are made available.

Supporting new ways to treat enhancements

We agree that new ways of treating enhancements need to be considered, especially in the light of continued political devolution to bodies such as Transport for London (TfL). We also agree that the routes within Network Rail must have greater responsibility for decision making on enhancements, and ensuring that these are aligned with maintenance and renewal works, and have continuity between project delivery and subsequent maintenance. This should reduce instances of wasted expenditure and ensure better co-ordination across the business.

ERTMS and related technology

It concerns us that Network Rail has placed a disproportionate faith in ERTMS and other technology under the banner of the 'Digital Railway' to solve most problems that it faces. We acknowledge that technological change will lead to some improvements in performance, but it is not a substitute for disciplined railway operating or for basic asset management. A case in point, is Network Rail's attitude toward managing lineside vegetation, litter, rubbish and graffiti. Despite a number of very high profile and very high passenger impact incidents such as the recent fire at Vauxhall resulting from the build up of litter and rubbish, Network Rail continues to attribute a low priority to this area of concern. We would like Network Rail to be set objective targets for reducing lineside vegetation, litter, rubbish and graffiti, particularly addressing historic accumulations of these elements, and to recognise the importance of these elements to passengers as demonstrated by our research into passenger attitudes to the Travelling Environment and to the big impact that failure to tackle this issue has on passengers when things go wrong.

Developing the high level framework for the review

We agree with the proposed high level framework subject to the concerns that we have raised above.

Thank you for the opportunity to comment on this, we are of course willing to discuss this further with you as necessary.

Yours sincerely,

Tim Bellenger
Director – Policy and Investigation

Response to ORR's initial consultation on the 2018 periodic review of Network Rail (PR18)

This pro-forma is available to those that wish to use it to respond to our consultation. Other forms of response (e.g. letter format) are equally welcome.

Please send your response to pr18@orr.gsi.gov.uk by **10 August 2016**.

Full name	David Print
Job title	Head of Strategic Development and Concession Management
Organisation	Merseyrail
Email*	
Telephone number*	

*This information will not be published on our website.

Chapter 2: Context for the review

We invite stakeholders to comment on whether they agree with our view of the context for PR18 or whether they consider there are additional significant points. (If the latter, please explain how these might affect the review).

No comments

Chapter 3: Focusing the review where it can have most impact for passengers and freight customers

We welcome views on the proposed relative priorities for the review, as well as any other areas that should be prioritised (in which case, we would particularly value views on what should not be prioritised as a consequence).

- The consultation includes the aim to facilitate devolution of transport decision-making responsibilities to regional funders. Merseyrail supports this and also Merseytravel's aspiration for greater devolution. Merseyrail is currently working with Merseytravel on options for station devolution
- Merseyrail believes the review should encourage closer informal working arrangements between train operators and Network Rail. Merseyrail has a 'soft' alliancing arrangement with Network Rail encouraging greater collaboration between the two organisations
- The review should encourage more partnership working between operators and Network Rail as per above
- Lower Network Rail costs does not necessarily lead to benefits to customers, due to contractual arrangements between operators and contacting authority, in our case we are mainly fixed on CP2 rates.

Chapter 4: Our proposed approach to the review

We would like to know if you agree with the overall approach that we have set out for the review.

We would also welcome additional suggestions and proposals for how we might adapt our regulation to the current context. It would be helpful if you could arrange your comments around the headings in the chapter (set out below) where these are relevant to your response.

Route-level regulation

No comments

System operation

No comments

Outputs & monitoring

- The proposal to improve incentives included exploring how charges could better reflect infrastructure costs. This could be an issue for Merseyrail given the underground network is more expensive than standard above ground networks. We await details of how the costs are spread.

Charges & incentives

No comments

Approaches for enhancements

No comments

ERTMS and related technology

No comments

Chapter 5: Developing the high-level framework for the review

We welcome views on how our high-level approach could be implemented and on the potential framework set out in chapter 5. As part of this, we invite thoughts on what it is practicable to achieve in PR18 and in CP6, and what might be more realistic to achieve in the subsequent periodic review.¹

We would also welcome any further suggestions and ideas on how we might improve how we regulate Network Rail.

- Merseyrail wishes to ensure that there is funding for enhancements on the Merseyrail network in CP6 (previously excluded from previous determinations)
- There should be sufficient funding for the route (LNW or North of England), the move to route level funding could potentially impact on this.
- The inclusion of a financial buffer at route level rather than company level may lead to an overall increase in buffer required.
- There is a provision for transfer of buffer between routes, however this potentially could lead to poorly performing routes supporting better performing routes.
- Moving to route level regulation should in principle lead to improved output from Network Rail, however there is a danger it could result in greater administration levels on both sides, thus increasing cost to the industry.

Chapter 6: Process and engagement

We would be grateful for comments on the proposed phases of the review, including any views on the [draft timetable](#) and our proposed approach to engagement.

We also invite high-level views on the process for customer engagement by Network Rail's routes and the system operator to inform their business plans, in terms of what is achievable for this review.

We would also welcome any views on how Network Rail and train operators would like to engage and be involved in the implementation process for PR18 and any thoughts on the process relating to Network Rail's right to object to our determination.

No comments

Any other points that you would like to make

No comments

Thank you for taking the time to respond.

¹ You may also wish to read and comment separately on the working papers that we will publish following this consultation document.

Response to ORR's initial consultation on the 2018 periodic review of Network Rail (PR18)

This pro-forma is available to those that wish to use it to respond to our consultation. Other forms of response (e.g. letter format) are equally welcome.

Please send your response to pr18@orr.gsi.gov.uk by **10 August 2016**.

Full name	Wayne Menzies
Job title	Head of Rail Services
Organisation	Merseytravel
Email*	
Telephone number*	

*This information will not be published on our website.

Chapter 2: Context for the review

We invite stakeholders to comment on whether they agree with our view of the context for PR18 or whether they consider there are additional significant points. (If the latter, please explain how these might affect the review).

The continuing increase in demand for rail services places increased pressure on the railway and on Network Rail to provide the necessary infrastructure which allows the delivery of the services and facilities required by the public.

The recent decline in the public performance measure and the issues highlighted in the Hendy review suggest that Network Rail is not delivering these necessary services.

In particular Network Rail seems to have some difficulty with dealing with third party enhancement schemes. The rigid structures which currently in place appear to lead to inflated project costs along with time delays in delivering projects.

There is a need to provide a greater level of transparency with respect to costing of projects with a relaxation of the procedures used to deliver projects to allow greater flexibility within project delivery.

Chapter 3: Focusing the review where it can have most impact for passengers and freight customers

We welcome views on the proposed relative priorities for the review, as well as any other areas that should be prioritised (in which case, we would particularly value views on what should not be prioritised as a consequence).

Merseytravel supports the high level priorities proposed.

Poor performance has a direct impact on the confidence of passengers who wish to use the railway. Merseytravel has direct responsibility for the Merseyrail franchise and the high level of performance it delivers is reflected in the high level of passenger loadings on its services as well as its very real contribution to the success of the economy in the region.

With respect to timetabling the Public Performance Measure (PPM) is as a method of assessing performance is an issue particularly where interchange is required between services. Due to the need to meet PPM targets it is not in the interests of the operator for a train to be held to ensure a connection. This is exacerbated further where interchange between different operators is required.

It would be helpful if the ORR to consider how an interchange measure could be incorporated into the current set of measures.

The issue of enhancements has also been identified in Chapter 2 above. The cost of enhancements, and in particular 3rd party enhancements, has increase significantly in recent years; well above the level of inflation and without any meaningful measures being adopted within Network Rail to address the concerns that have been highlighted.

A greater understanding of what is driving costs upwards is required. We are not convinced that the current process for delivering projects through single source frameworks is delivering the benefits it was originally expected to deliver and is potentially one of the reasons for costs being driven upwards.

There needs to be a greater focus on how Freight is accommodated on the network as an enabler for growth for regions such as Liverpool City Region where the maritime related economy is of such significant importance. We support the ORR with respect to the delivery of a safer and more reliable network.

Chapter 4: Our proposed approach to the review

We would like to know if you agree with the overall approach that we have set out for the review.

We would also welcome additional suggestions and proposals for how we might adapt our regulation to the current context. It would be helpful if you could arrange your comments around the headings in the chapter (set out below) where these are relevant to your response.

Route-level regulation

While agreeing with the drive towards route level regulation it is important to recognise that the characteristics of the Routes are very different, so the priorities of customers and stakeholders may be different. Some Routes are largely focussed on London commuting; others (e.g. the Wales Route or the proposed Northern Route) are much more diverse.

System operation

The issue of rewarding perverse operation has been dealt with in our response to Chapter 3 with respect to PPM and conflict between ensuring connections and meeting the timetable requirements. We would welcome a set of performance measures which addresses this anomaly.

The franchise system tends to fossilise timetables; service patterns and even actual timetables on many lines in Northern England have seen little alteration since the 1990s. Franchisees have an incentive to make changes as early as possible within the franchise term to maximise their return on investment. Neither Northern nor TransPennine Express proposes any significant timetable change after December 2019 for the remainder of their franchise terms. Franchise boundaries usually determine service patterns, including the provision (or absence) of through long-distance services, while the differing expiry dates of franchises make it difficult to change service patterns or re-map services between franchises.

Outputs & monitoring

The measurement of delays should take into account the impact on passengers of missed connections, which can easily turn a 10-minute delay into a delay of over an hour for an affected passenger.

Charges & incentives

We support a review of the charges paid by open access operators; it seems unfair that they should pay only what are in effect marginal costs while franchise operators pay a greater share of costs. A 4-car open access diesel train serving a secondary destination may not be the best use of constrained capacity on electrified main lines.

Operators should be incentivised to use electric trains on electrified lines; the Northern and TPE franchise agreements require “at least 90% of services on electrified lines to be operated by electric traction,” so this principle could be extended and backed with an incentive in access charges (perhaps marketed as a discount for use of electric traction) for all operators.

Approaches for enhancements

Need to ensure that renewals to “modern equivalent” facilitate opportunities for enhancement where reasonably practicable, so renewals programmes should be shared with potential funders of network enhancements, including devolved funding bodies, at a sufficiently early stage to allow consideration of the scope for enhancements and the availability of funding and resources for delivery. Clear link to the need for a suitably skilled and motivated workforce. Competition from other railway businesses for this workforce, notably HS2.

It is important there is a better understanding of what drives infrastructure costs. Current infrastructure costs are rising at a significant rate and will act as a deterrent to making improvements to the railway infrastructure.

Network Rail appears to be having increasing difficulty in dealing with 3rd party schemes and the cost of such schemes are rising at a disproportionate rate. The potential for alternative means of delivery of such projects at a lower cost needs to be explored. The treatment of third party schemes as an encumbrance to the smooth running of the railway and the nature of Network Rail’s risk adverse commercial contracts for such schemes are further disincentives.

ERTMS and related technology

Merseytravel supports the proposed approach proposed by the ORR.

Chapter 5: Developing the high-level framework for the review

We welcome views on how our high-level approach could be implemented and on the potential framework set out in chapter 5. As part of this, we invite thoughts on what it is practicable to achieve in PR18 and in CP6, and what might be more realistic to achieve in the subsequent periodic review.¹

We would also welcome any further suggestions and ideas on how we might improve how we regulate Network Rail.

While supporting this line of approach any system which allocates the funding direct to each route would need to have a clear and full understanding of the specific route requirements to ensure that a specific route is not underfunded at the expense of other routes. How much flexibility Network Rail would have to move money between routes or the extent of stakeholder influence in those decisions would need to be carefully considered.

The impact of the failure of a route to deliver its required output would need to be fully understood.

¹ You may also wish to read and comment separately on the working papers that we will publish following this consultation document.

Chapter 6: Process and engagement

We would be grateful for comments on the proposed phases of the review, including any views on the [draft timetable](#) and our proposed approach to engagement.

We also invite high-level views on the process for customer engagement by Network Rail's routes and the system operator to inform their business plans, in terms of what is achievable for this review.

We would also welcome any views on how Network Rail and train operators would like to engage and be involved in the implementation process for PR18 and any thoughts on the process relating to Network Rail's right to object to our determination.

Merseytravel accepts the proposed timetable for the phases of the review.

Merseytravel, as a devolved funding and specifying body in its own right is particularly interested in how the proposals will affect Merseyrail and would be happy to engage directly with the ORR during the PR18 process.

We appreciate the opportunity to comment on the working papers provided by the ORR.

Any other points that you would like to make

Thank you for taking the time to respond.

Network Rail's response to ORR's 2018 periodic review of Network Rail – initial consultation

10 August 2016

Executive Summary

Network Rail is pleased to respond to ORR's 2018 periodic review of Network Rail (PR18) initial consultation document.

ORR's consultation is the first consultation in what will be a nearly three-year process. At this stage of the review, ORR's discussion is necessarily high-level and focused on what the approach and priorities for PR18 should be (as opposed to detailed policy consideration).

PR18 coincides with a significant period of change in the industry. The approach and outcomes of PR18 must support the rail industry in meeting the challenges and opportunities ahead in delivering benefits for passengers and freight users.

Network Rail's Board has provided significant input to this response. The Board recognises the critical role that Network Rail must play in contributing to the future success of the industry. Equally, it is clear about the changes that are required to the regulatory framework to make it more aligned with the company's corporate objectives and to deliver more for passengers, freight users, rail operators and taxpayers.

Network Rail needs a regulatory settlement that allows us to build our reputation and succeed, rather than one that is based on unattainable targets, where failure is inevitable. PR18 is an important vehicle through which the necessary changes can be made. It should support Network Rail's strategy of moving from a centralised organisation to one comprising devolved businesses operating within a national framework. We are creating devolved businesses that understand and are focussed on their customers, and can make quick decisions that meet customer needs and expectations. We have also reformed the performance management systems and scorecards to make them transparent to our customers and the public.

This strategy will enable customers to more effectively hold Network Rail to account for its performance based on the route scorecards. Route-based regulation will reinforce our strategy of devolving accountability to routes. In turn, this should allow ORR to take a more strategic, targeted approach to regulation. It is important that ORR avoids the risk of an increased regulatory burden as a result of the introduction of route-level regulation, recognising that it continues to regulate Network Rail as a whole.

Network Rail considers that the following issues should be a priority for PR18:

- **Route-level regulation** – Network Rail agrees with ORR's proposal that the implementation of route-level regulation should be a priority in PR18. Setting outputs and revenue at the route-level will support our devolution and reinforce the role of routes as customer-focused businesses, ultimately delivering for passengers and freight users.
- **Financial sustainability** – it is critical that PR18 delivers a financially sustainable outcome for Network Rail. Potential balance sheet restructuring, cash funding for some enhancements and a regime that supports the introduction of third-party capital in the funding and financing of Network Rail are key priorities. The introduction of third-party capital is important for Network Rail and the industry in meeting the growing demands for capacity. A determination that supports reasonable levels of profit will be an important factor in our ability to attract private investment. We understand that ORR is planning to consult on Network Rail's financial framework for CP6 in December 2016. There are a number of issues that will require detailed discussion with ORR, funders and other stakeholders prior to the publication of this consultation.

- **Outputs and monitoring framework** – we consider that this area requires significant reform in PR18, particularly in light of route-level regulation. The framework should provide more flexibility and fewer targets, which should include the ability to make trade-offs between different output targets. Such an approach should build on the recent introduction of customer-focused scorecards, which align our targets and priorities much more closely with those of local train operators, route-by-route.

ORR has proposed an ambitious work programme for PR18. It is important that expectations are realistic about what can be achieved in PR18 and that some changes may need to be implemented in the subsequent periodic review.

Network Rail will respond separately to ORR's PR18 working papers on system operation, implementing route-level regulation, the regulatory treatment of enhancements and the outputs framework. While Network Rail notes that these do not form part of ORR's formal consultation process, there are many elements of crossover between the working papers and the PR18 initial consultation document. This response, therefore, responds to ORR's five consultation questions and makes some high-level points relating to each of the working paper topics. More detailed policy considerations and issues will be set out in Network Rail's responses to the working papers.

Network Rail notes that ORR expects to conclude on its consultation in late Autumn 2016. Prior to ORR's conclusions, Network Rail would welcome further discussion with ORR and industry stakeholders on the points we make in this response, and of course continued engagement on the detailed planning and policy aspects throughout PR18.

Responses to ORR's consultation questions

Question 1

Context for the review: stakeholders are invited to comment on whether they agree or whether they consider there are other significant points (and if so, to explain how these might affect the review).

The next decade will be challenging with significant planned industry investment, a large refranchising programme and forecasts of increases in passenger and freight demand. The timing of PR18 provides an opportunity to review how Network Rail's outputs and funding settlement for CP6 and the regulatory framework can help meet the industry changes, challenges and opportunities ahead.

We agree with the context that ORR has set out in its consultation and that its approach to regulating Network Rail needs to reflect the changing environment. As ORR notes, Network Rail's reclassification as a public sector organisation is of particular significance. This has removed the benefits of the company's previous funding and financing structure, including that Network Rail can no longer raise additional debt to deal with cost shocks. While Network Rail is seeking to address this in CP5 through its assets disposal programme, this is not a sustainable course of action in the longer-term. ORR's approach to regulating Network Rail must adapt to recognise the impact of reclassification. In particular, we need to be able to manage risk and uncertainty for CP6 and beyond, in combination with a more flexible approach to outputs delivery.

ORR states that Network Rail's public sector status has also raised questions about the company's incentives. In particular, ORR notes that the increased public / political scrutiny on the company raises the importance of reputation. It also notes that the financial incentives to improve performance and efficiency are now different.

Reputation is clearly important and always has been, particularly in relation to the company's ability to attract and retain the talent it needs to run the business. The introduction of route-based regulation will lead to reporting and monitoring of the performance of each route. We agree that this should highlight both areas of the company that are performing well and areas that require improvement. This will impact the reputation of each route, although this is likely to be in the context of Network Rail's overall performance.

We note the discussion on the financial sustainability of Network Rail's legacy debt and servicing costs in ORR's 2013 long term regulatory statement. ORR reiterates that this remains an issue.

Network Rail strongly considers that financial sustainability is critical for the company's success in the long-term, including its ability to attract third-party investment.

The regulatory framework must support Network Rail's achievement of a credible financial position, including the level of its debt, the affordability of servicing its debt and an appropriate level of profitability. As ORR's consultation states, the scope for new capital investment by governments to accommodate growing demand is likely to be reduced. Therefore, creating the right environment for third-party investment and attracting new money into the industry should be a priority.

In respect of political devolution and changes to industry structures and incentives, the regulatory regime should be adaptable to potential changes in funding arrangements and customer needs.

ORR refers to the UK Government's Summer 2015 announcement that it intends to channel a greater proportion of industry funding in England & Wales through franchised train operators (as opposed to Network Rail) and that this could unlock benefits. We note that this could provide much greater clarity on the scale of government subsidy being provided to each part of the railway. We will work with funders, ORR and other industry stakeholders on assessing the implications of this over the coming months.

We also note the UK Government's intention to explore how franchised train operators might be exposed to a wider set of changes in network charges at each periodic review. ORR's consultation suggests that this could improve incentives on train operators to work with Network Rail to reduce system-wide costs. While we agree that this could lead to franchised train operators being more likely to develop ways to help Network Rail minimise costs and maximise outputs, this will have important implications for the overall franchising regime which should not be underestimated.

In addition to the points of context that ORR sets out, Network Rail notes the importance of the government's large refranchising programmes over the next five years, in particular. This will provide an opportunity to seek alignment between train operators' franchise obligations and Network Rail's regulated outputs, particularly in terms of train performance.

Currently, the incentives framework is not well-aligned and does not always encourage the right behaviours. For example, the current regime has inconsistent train performance targets for Network Rail and train operators. Train operators are also monitored by different organisations. Network Rail proposes to work with government on improving alignment and would welcome ORR's support in taking this forward.

Question 2

Focusing the review where it can have most impact for passengers and freight customers: ORR welcomes views on the proposed relative priorities for the review, as well as any other areas that should be prioritised (in which case, it would particularly value views on what should not be prioritised as a consequence).

Network Rail agrees that the outcomes ORR sets out in its consultation are important. Given the scope of change that will be required in PR18 – in particular the implementation of route-level regulation – we agree that ORR will need to prioritise its work programme and focus on the most material issues that ultimately, will deliver benefits to passengers and freight customers.

We also agree that ORR should maintain its focus on safety, and that safety has a significant role in the approach to PR18. However, safety should not be considered in isolation. It needs to be considered together with business performance and financial value, with appropriate consideration of the value for money of potential investment in safety improvements.

The following section sets out areas that Network Rail considers to be a priority, which have either not been included in ORR's discussion or where Network Rail has a different view on prioritisation.

Financial sustainability as an outcome

We strongly consider that an outcome of improving Network Rail's financial sustainability for PR18 should be included.

Potential balance sheet restructuring, cash funding for some enhancements and how the regime should support the introduction of third-party capital in the funding and financing of enhancements

are key priorities for Network Rail in PR18. Network Rail is already working with government on these issues and would welcome ORR's support as it takes these discussions forward.

In particular, a framework that supports the introduction of third-party capital is important for Network Rail and the industry in meeting the growing demands for capacity. To create the right environment for and to maximise third-party investment, it is important that the company (and each route) has a credible financial position. This includes the affordability of servicing Network Rail's debt and an appropriate level of profitability, in order for third-party investment to earn a sufficient return for it to be attractive.

We understand that ORR plans to consult on the financial framework for PR18 in December 2016. We will work closely with ORR, funders and other industry stakeholders on the relevant issues prior to the publication of this document.

Changes to the outputs and monitoring framework

ORR's consultation proposes that the outputs and monitoring framework should be an area for incremental improvement and simplification. Network Rail, however, considers that fundamental change is required. In particular, we consider the development of a more flexible approach to output targets is needed to support route-level regulation. This would be underpinned by Network Rail's routes working with customers, funders and other stakeholders to determine what the outputs should be, with ORR's role focused on the monitoring of the delivery of these through Network Rail's customer-focused scorecards. It is essential that Network Rail is enabled to focus on its customers rather than on meeting detailed targets set by ORR.

We consider that rather than being based on specific targets, broader parameters that reflect uncertainty / potential changes through CP6 are needed (for example, minimum thresholds or ranges) and that the flexibility to make trade-offs between different outputs is required. This will be important to support alliancing arrangements and our ability to evolve our plans to reflect the priorities of the alliance. More generally, the use of broader parameters will allow us to work closely with all our customers and continually adapt our plans in light of emerging local requirements.

The current outputs framework is based on a series of specific outputs that are assessed individually. Instead there needs to be a balanced scorecard approach, in which a basket of measures are determined, with assessment of them together (rather than individually) at a route-level. The assessment should be based on our customers' and stakeholders' views more than data interrogation by the regulator. A regulatory regime that allows our customers to take a much greater role in holding Network Rail to account should result in ORR taking a more targeted and risk-based approach to monitoring, allowing it to focus on more strategic issues.

Charges and incentives

We note ORR is planning to issue a further consultation on charges and incentives in December 2016. It is important that ORR's work continues to build on RDG's recently concluded two-year [Review of Charges](#). This review was carried out at an early stage in CP5 with engagement across the industry including ORR. It provided an opportunity for passenger and freight train operators and Network Rail to clearly set out their own views on the appropriate structure of charges and incentives, prior to PR18 starting.

Network Rail notes ORR's proposal to focus on incremental improvements to Schedules 4 and 8 in PR18. As Network Rail set out in its response to ORR's December 2015 consultation on charges and incentives, it considers Schedules 4 and 8 to be key areas of focus for PR18 (alongside the

Capacity Charge). This is consistent with RDG's Review of Charges conclusions, which also identified that the current Capacity Charge should be prioritised for reform, along with improving the allocation of fixed costs between train operators.

ORR's consultation refers to the need to strengthen incentives to accommodate additional traffic or to identify better ways to use the current network. While ORR identifies the potential role of the System Operator in achieving this, broader options should also be considered. These could include the role of charges, the Volume Incentive, the performance and possession regimes, and output targets. Network Rail is currently considering this in more detail but we would stress that all changes to the regime should meet RDG's judgement criteria of predictability, simplicity, transparency and low transaction costs.

Network Rail would welcome further discussion with ORR on how it is proposing to take forward its work on the areas discussed in this section. We suggest that they should form a substantive part of ORR's December 2016 consultation.

More broadly, there is some concern whether the current incentives regime, together with the franchising arrangements, achieve the right balance on different parts of the network between capacity utilisation and network resilience. We are keen to explore this with government and ORR in more detail.

Prioritisation

ORR is undertaking an ambitious work programme for PR18. It is important that realistic expectations are set out at an early stage on the scale and pace of change that can be achieved in the review. Limited industry resources will need to focus on areas that will require significant attention in PR18, such as the successful implementation of route-level regulation.

In respect of what could be deprioritised, we would encourage ORR to consider limiting its work on charges and incentives to areas of the regime that require genuine change, and ultimately, will deliver benefit to passengers and freight users. For example, we understand that ORR is considering the disaggregation at route-level of the variable usage charge. We do not consider that this should be prioritised, particularly since RDG's Review of Charges concluded that VUC was not considered a priority for change for CP6 and that it received broad industry support in its current form.

Question 3

ORR's proposed approach to the review: ORR would like to know whether stakeholders agree with the overall approach that it has set out for the review. It would also welcome additional suggestions and proposals for how its regulation might adapt to the current context and asks that comments are arranged around: route-level regulation; system operation; outputs and monitoring; charges and incentives; approaches for enhancements; and ERTMS and related technology.

Introduction

Many of the issues relating to ORR's proposed approach are discussed in detail, in the working papers that ORR has published alongside the consultation. Network Rail's response to this question, therefore, focuses on the key issues associated with each topic. A more detailed discussion of the issues is set out in Network Rail's responses to the working papers.

Route-level regulation

Network Rail agrees that its devolved structure provides an opportunity to improve how it is currently regulated. The implementation of route-level regulation would support Network Rail's strategy for increased devolution and further embed the role of route businesses and Network Rail's System Operator function.

In its consultation, ORR notes the importance of route-level regulation to provide effective incentives for a large publicly owned business, specifically referring to a potentially enhanced role for reputational techniques in how it regulates Network Rail. We agree that there could be an enhanced role for reputation in CP6 as a regulatory tool, and that it could be used to highlight areas of the business that are performing well and areas that require improvement. The role of reputation also reinforces the need for a regulatory settlement that allows Network Rail to build its reputation and succeed, rather than one that is based on unattainable targets.

Network Rail needs to consider the extent to which management incentives for staff in routes should be based on route performance, while recognising their importance in delivering overall network performance.

ORR's consultation sets out different techniques that could underpin the approach to route-level regulation. These include customer involvement in the planning process, increased route ownership of plans and benchmarking routes' data (which, ORR notes would reduce the need for international comparisons which are likely to be unreliable).

PR18 will require significant focus on how to make these techniques work and overcome related issues. For example, any inter-route benchmarking will need to take into account structural differences between routes to enable effective comparisons.

We will seek to engage our customers in the development of route-level plans and consider that this process will result in our plans being more robust and better aligned to current and future passengers' and freight users' needs. However, we recognise that the process for seeking customer input into the planning process will be an iterative one, which will continue beyond PR18.

Network Rail agrees that route-level regulation should not result in eight times as much regulatory scrutiny and that it must not add to the overall costs of regulation. Taking a risk-based approach to the review of our plans and making fundamental changes to the outputs and monitoring regime will be critical to the work being successful. Our customers should be able to play a greater role in holding us to account, thus reducing the need for detailed data interrogation and interventions by ORR. As set out in the discussion on outputs, below, there should also be a move away from the current focus on indicators and enablers. These can be perceived as regulatory targets and in turn, create a way of working that inadvertently treats ORR as the customer.

There also needs to be sufficient flexibility in the regulatory regime to recognise that Network Rail's current eight routes are not static geographies and will likely be subject to change during CP6 and beyond.

Network Rail agrees that it may not be possible to deliver route-level regulation in full in CP6 and that its implementation may need to be phased. We consider that it will be important for ORR to conclude at an early stage of the review (for example in its conclusions to this consultation) the scope of what can be implemented for CP6. Realistic expectations will be required, particularly on the extent to which customers can be involved in the development of the company's plans given the likely limited industry resources and timing constraints. We consider that maximising customer engagement is more important than setting very detailed targets and plans.

System operation

Network Rail's System Operator function includes balancing the needs of its passenger and freight customers, delivering the requirements of its public funders, building a cohesive national timetable and providing the necessary engineering access to build and maintain the railway. Network Rail plans to introduce a System Operator scorecard which will allow transparent reporting of the network-wide activities, which aim to make best use of network capacity.

ORR's consultation sets out a number of options that the form of System Operator regulation could take. Network Rail agrees that the System Operator should have its own regulated outputs, although we consider that a separate revenue requirement is not required, as the functions cut across other activities. Instead, a plan would be developed for Network Rail's System Operator function. We could report against ORR's assumptions on System Operator expenditure during CP6. For the purposes of calculating track access charges at a route-level, System Operator expenditure could be allocated to each route.

As part of the System Operator work in PR18, Network Rail does not expect the reopening of matters such as introducing new charges that are linked to the relative 'value' of different parts of the network. This has already been discussed (and subsequently closed down) as part of ORR's charges and incentives workstream.

Outputs and monitoring

Network Rail will be able to build on the recent implementation of customer-focused scorecards for CP5 to increase the involvement of train operators and other local stakeholders in setting appropriate outputs for CP6. These discussions should also consider how the regulatory regime supports stronger alignment between Network Rail's outputs and the requirements set out in franchise agreements, where possible. Further consideration of how to include measures of long-term management of the network in the scorecards and the respective roles of customers, funders and ORR will also be required.

In respect of specific regulated outputs, Network Rail considers that the Passenger Disruption Index (PDI) should be removed in CP6. Inevitably there are costs associated with reporting PDI performance. In our experience it has not been widely used by the industry to monitor network availability. We would welcome further discussion with ORR and industry on other suitable measures of the extent to which the network is available to run trains.

We note the National Task Force's (NTF) work on how train performance is measured, and in particular whether the Public Performance Measure (PPM) is appropriate. Network Rail has contributed to this work, and as ORR notes, it is important that PR18 builds on NTF's findings.

In respect of the monitoring framework, Network Rail considers that customer-focused scorecards should allow ORR to rely more on Network Rail's customers to hold it to account, as well as its Board to provide oversight and assurance. ORR should then be able to focus on simpler and transparent monitoring and reporting of Network Rail's performance, consistent with the customer-focused scorecards.

Network Rail also considers that the approach to how indicators are used needs to change. The current approach creates the wrong behaviours in both Network Rail and ORR, where indicators are treated as regulatory targets. This results in ORR being treated as Network Rail's customer. While Network Rail considers that indicators should continue to be used for managing the business, it should not be required to publish forecasts of them in CP6.

We recognise that ORR may find our performance against indicators useful for monitoring purposes. However, we are keen to reduce the regulatory burden of the Annual Return reporting requirements where possible. A possible means for sharing our performance against indicators with ORR in the future is the National Data Trends Portal. We also consider there is an opportunity to simplify financial reporting with a reduction in the amount of detail included in the regulatory accounts. We believe this would increase transparency by making financial reporting more accessible and would reduce the significant regulatory burden relating to production of the regulatory accounts. We could again provide supplementary data through the data portal. We would welcome further discussion with ORR on this as we consider early changes could be made in CP5.

Charges and incentives

Network Rail set out its initial views on the charges and incentives framework in its response to ORR's December 2015 consultation. In summary, Network Rail stated its support for ORR's proposals to prioritise the development of the infrastructure costs package and closing down the value-based package for CP6.

Network Rail notes ORR's reference to potentially calculating some charges based on each route's costs to improve cost reflectivity. While the consultation does not go into further detail, Network Rail understands that a potential option could be the disaggregation of the variable usage charge (VUC) (rather than the current single network-level charge). Based on previous work carried out by Network Rail on this issue, it is important to be mindful of the perverse incentives that route-based VUC could create. In addition and as previously discussed, RDG's Review of Charges concluded that VUC received broad industry support in its current form and was not considered as a priority for change.

We note ORR's intention to continue its work to identify incremental improvements to the incentives for possessions and performance (Schedules 4 and 8). The Capacity Charge, Schedule 8 and Schedule 4 are closely linked. We consider, therefore that they should be reviewed in the round and, as previously discussed, as a priority for CP6. We consider that the following aspects should be reviewed:

- Ensuring that the evidence for compensation payments to operators in Schedules 4 and 8 is up-to-date and robust.
- Reforming the Capacity Charge, for example by directly absorbing it into the Schedule 8 regime.
- Improving the incentives on passenger operators to reduce reactionary delay which they cause.
- Reviewing the Sustained Poor Performance arrangements in Schedule 8, to ensure that they are fit for purpose.
- Refining the calculation of the Access Charge Supplement in Schedule 4.

Network Rail supports ORR's approach to simplifying or abolishing track access charges that do not deliver sufficient benefits. For example, Network Rail considers that PR18 could review whether the Coal Spillage Charge should be retained. There would be a cost to the industry of re-calibrating the Coal Spillage Charge for CP6. This cost should not be disproportionate to the value of the charge itself.

It will be important that ORR concludes on the overall charging and incentives framework as soon as possible, such that Network Rail has sufficient time to focus on the detailed policy and calculation of access charges for CP6 in collaboration with our customers.

We would welcome further discussion with ORR and industry stakeholders on all these issues prior to the publication of its charges and incentives consultation in December 2016.

Approaches for enhancements

ORR's consultation sets out a number of questions relating to the treatment of enhancements in PR18 and what criteria might apply in determining the overall approach. Network Rail will provide detailed thoughts on these questions in its response to the enhancements working paper.

In considering the overall approach to enhancements, it is important that clarity is provided on how the governments will fund enhancements, even for schemes agreed outside of PR18. This could be through the governments' SoFAs or otherwise. In particular, we consider that we should receive direct grant funding for the part of enhancements that deliver wider benefits to society. Absent such an approach, it means that the railway pays for the wider society benefits and the level of Network Rail's debt and the associated servicing costs will increase.

The enhancements framework should also be consistent with the core principles set out in the Memorandum of Understanding (MoU) between Network Rail and DfT. In particular, there needs to be clarity of the commitments being made as enhancement schemes progress through the project lifecycle from early stage planning, development, design and ultimately delivery.

ERTMS and related technology

Network Rail notes ORR's view that insufficient clarity will exist about the timing and funding of Digital Railway for it to be included in its CP6 determination. However, it is critical that we are able to confirm the funding arrangements as soon as possible with DfT and ORR. This will allow the rolling programme of delivery to start across the network, as planned, in CP6. In addition, the arrangements will need to recognise that the programme spans multiple control periods.

As part of the development of the Digital Railway programme, we will need to agree funding arrangements for the wider industry's costs of deployment that support efficient and effective delivery. There are discussions already underway and we would welcome further clarification through engagement with governments, operators and ORR on the potential industry arrangements.

Whilst noting the above, ORR should be clear that Network Rail's core operations, maintenance and renewals plans for CP6 will be based on the roll-out of Digital Railway in CP6. It will be equally important to recognise that there are a number of R&D activities that are not included in the Digital Railway programme, but are integral to its success. We will need to ensure that there is sufficient funding for these activities in PR18.

Question 4

Developing the high-level framework for the review: ORR welcomes views on how its high-level approach could be implemented and on the potential framework set out in the chapter. As part of this, it invites thoughts on what it is practicable to achieve in PR18 and in CP6, and what might be more realistic to achieve in the subsequent periodic review.

ORR would welcome any further suggestions and ideas on how it might improve how it regulates Network Rail (noting that readers may wish to read and comment separately on the working papers that have been published following the consultation document).

Network Rail's response to this question does not seek to address all of the points which ORR makes in this section of its document. Many aspects will be covered in Network Rail's responses to the working papers or have been addressed in other consultation questions.

A potential framework for the determination

Network Rail agrees that routes should have separate revenue requirements and outputs as part of ORR's overall determination for CP6. We consider that our central functions and System Operator costs should be allocated to routes as part of that process. As ORR notes, RAB and debt will also need to be allocated to routes to support the calculation of route revenue requirements (although it is important to note that any borrowings will be made by Network Rail centrally, and not on a route-by-route basis).

We consider that route revenue requirements should be based on individual plans, which will include the route scorecards. Separate plans would be available for Network Rail's central and System Operator functions.

Outputs

Network Rail considers that regulated outputs should be determined for each route (including separate outputs for the freight route) and Network Rail's System Operator function. These should be based on the route and System Operator scorecards, developed in consultation with customers.

Revenue requirement and duration of CP6

Network Rail supports ORR's proposal to retain the building blocks approach to calculating Network Rail's revenue requirement for CP6.

ORR's consultation discusses the need for ORR to decide on whether Network Rail's efficiency assumptions should be based on what a fully efficient company would be expected to achieve or a more realistic level of challenge for the company. It is important that ORR's efficiency assumptions for CP6 are realistic and recognise the pace of change that is possible. It should also be noted that the overall level of efficiency will be influenced by the level of funding and financing that is available in CP6.

Network Rail agrees that considering all sources of its income together, whether from regulated access charges or commercial income, (i.e. the single-till approach) remains appropriate. This approach has the advantage that any profits the company makes from its 'non-core' railway activities reduce the size of the overall revenue requirement (although as ORR notes, Network Rail's asset disposals programme is likely to significantly reduce the level of single-till income in the future).

In respect of the duration of the control period, Network Rail agrees that five-yearly settlements remain appropriate. We consider that the certainty of funding for a five-year period is critical to effective planning, although we recognise that this requires commitment from government.

It is important that five-yearly settlements are considered in the context of the railway's much longer planning horizon. Some projects do not fit 'neatly' into a single control period. Other projects will straddle the end of a control period, and clarity is required as to how these will be funded. It is also important to recognise that our plans will continue to evolve within and beyond each funding period.

The financial framework and change control

Financial framework

Network Rail agrees that the mechanism for financing and funding Network Rail, the borrowing limit and the process for agreeing these are critical for the company and the PR18 process.

Network Rail will continue to invest to deliver enhancements to the rail network in CP6. Establishing how the funds to pay for these are provided is key. Money for these enhancements could be provided through government grants, funding from third parties or via loans from DfT.

If the majority of CP6 enhancements are debt-funded, this will have a significant adverse impact on the level of Network Rail's debt and the associated servicing costs, which are already a significant proportion of its revenues. It would also impact the long-term financial sustainability of the company and the attractiveness to third-party investment. As discussed, above, we consider that there would be merit in the costs of enhancements that deliver benefits to society being cash-funded in CP6.

To enable Network Rail to develop business plans, and for ORR to develop its policy on Network Rail's financial framework, DfT's SoFA should cover the mechanisms through which funds will be provided to Network Rail. This should include debt, which has not been included in previous SoFAs (noting that these were prior to reclassification). During PR18 we will be working with governments and ORR to agree the funding and financing arrangements for CP6, including the approach to our loan agreement.

Managing uncertainty and change control

The approach to managing financial risk and uncertainty for CP6 and beyond is one of Network Rail's priorities for PR18. As ORR notes, we face a number of both controllable and uncontrollable risks. The ability to manage interest rate and inflation risk over the course of CP6 will be of particular concern (since reclassification has impacted our ability to manage these risks).

We consider that the PR18 determination should provide flexibility for Network Rail to respond to changing circumstances without jeopardising the safety and sustainability of the GB rail network. Network Rail therefore agrees with ORR's proposal that the settlements it determines for CP6 should include a specific financial buffer to recognise potential changes in circumstances during the control period. However, we also consider that the framework should allow for trade-offs between outputs and expenditure which would be reported in the route scorecards.

The approach to risk should recognise the different types of risk that Network Rail faces. We consider that there are three broad categories of operational risk:

- route-level uncertainty – route costs that 'expected' to arise for which specific activity or cost is unknown, e.g. increased volume/cost of embankment renewals in a route;
- network-level uncertainty – costs that are 'expected' to arise for which the specific route location as well as activity or cost is unknown, e.g. localised costs caused by flooding; and
- contingent risks – potential higher expenditure (or lower income) from risks that are 'unexpected', particularly in terms of frequency and the scale of unknown events.

ORR's consultation specifically asks for views on the use of a "central risk reserve mechanism". We strongly support the use of a central risk reserve which would be used to manage network-level uncertainty and contingent risks, as described above. It would need to be based on a proportionate risk allowance and included in Network Rail's central plan. There will also need to be appropriate mechanisms in place relating to financial risks (e.g. interest costs and inflation) and enhancement costs.

Out / under performance at a route-level

As ORR notes, route-level regulation has further implications for how Network Rail and its routes manage out- and under-performance against the baselines that ORR sets. We are pleased that ORR recognises that we will need the ability to move money between the routes to ensure financial

sustainability and best value for money, across the company. We also agree that this will require a clear reporting process of over- and under-expenditure at route-level.

Incentives framework

We note ORR's view that route-level regulation could have implications for the contractual incentives framework which it sets. Specifically, it suggests that the Schedule 8 contractual performance regime may need to change since the current benchmarks are not route-specific.

We are unclear on the benefits of making this change, particularly since it could result in more complexity. Our understanding is that trains crossing a geographic boundary would be required to deliver different levels of performance which could result in some significant differences. Given the even greater focus on delivering for the customer, it is important that we establish if this change would be beneficial for operators, passengers and freight users. We expect that it may be more valuable for Network Rail to deliver a good, consistent level of performance across a train service, rather than changing the targeted level of performance at a route boundary. Also, we believe that this could be a considerable change in the Schedule 8 recalibration for PR18, and would welcome early clarity on the proposal. We would also welcome further discussion with ORR to understand its rationale for this suggestion.

Similarly, we understand that ORR is considering geographic disaggregation of the Variable Usage Charge (VUC). As stated earlier, we have concerns about this proposal.

Monitoring and encouraging good performance

We agree that the shift to regulating Network Rail at route and System Operator level provides an opportunity for major change to the way in which we are currently monitored.

As discussed in response to question three, above, we consider that route scorecards should have a fundamental role in ORR's monitoring of Network Rail in CP6. Network Rail's Board would provide oversight and assurance through the route scorecards and they should facilitate our customers taking a greater role in holding us to account. This should allow ORR to focus on simpler and transparent monitoring and reporting, and should reduce the need for detailed data interrogation.

With the implementation of route-level regulation, it will be important to ensure that the reporting burden is proportionate. As discussed above, a key aspect of this will be reviewing the approach to forecasting indicators and enablers in CP6, as well as ensuring that reporting requirements are adding genuine value.

Question 5

Process and engagement: ORR would be grateful for comments on the proposed phases of its review, including any views on the draft timetable and its proposed approach to engagement. It also invites high-level views on the process for customer engagement by Network Rail's routes and the system operator to inform their business plans, in terms of what is achievable for this review.

PR18 timetable

We note ORR's proposal that Network Rail's Strategic Business Plans (SBPs) should be published in October 2017. This would have significant implications, not least reducing the time available for the development of and consultation on the route strategic plans. We need to ensure that there is sufficient time for routes to produce robust and evidenced-based plans together with effective customer consultation.

We welcome the increased role for customers in the development of our plans and agreeing the outputs that each route and the System Operator should achieve in CP6. We do note, however, that franchised operators currently are not financially exposed to changes at periodic reviews. This could impact the way in which they seek to influence the outputs that they wish to see delivered in CP6. The PR18 approach to customer engagement, therefore, will need to manage such challenges.

Implementation

In respect of ORR's discussion on implementation of PR18, we would stress that sufficient time needs to be set aside for drafting changes to track and station access contracts, and our Network Licence. This will ensure that all relevant parties understand the revised provisions and have the opportunity to contribute, as well as minimising the risk of drafting error.

We note ORR's observations about industry stakeholders' engagement in the contractual drafting process for the implementation of the PR13 Final Determination. If industry stakeholders are to take more of a role for drafting in PR18, as ORR suggests, policy decisions need to be finalised sufficiently early in the process. Network Rail considers that this would need to be well in advance of its PR18 Final Determination. This is also the case for making changes to Network Rail's billing systems. Sufficient time needs to be allowed for understanding requirements, code development, testing and implementation.

Finally, we agree that there would be merit in PR18 exploring how an individual route settlement (or indeed any aspect of ORR's Final Determination) could be challenged without challenging the whole determination, as is currently the case. However, in the event that we were to object and ORR was to refer our challenge to the Competition and Markets Authority, we are unclear how it could do so without referring the whole determination. We would welcome further discussion with ORR on how this could work in practice.

Response to ORR’s initial consultation on the 2018 periodic review of Network Rail (PR18)

This pro-forma is available to those that wish to use it to respond to our consultation. Other forms of response (e.g. letter format) are equally welcome.

Please send your response to pr18@orr.gsi.gov.uk by **10 August 2016**.

Full name	Derek Gittins
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*This information will not be published on our website.

Chapter 2: Context for the review

We invite stakeholders to comment on whether they agree with our view of the context for PR18 or whether they consider there are additional significant points. (If the latter, please explain how these might affect the review).

Growing demand from passengers and freight customers

The North East Rail Management Unit (NERMU) agrees with statements outlined as covering key issues regarding future demand requirements. In addition demand growth needs to consider the impacts of the transformational ‘Northern Powerhouse Rail’ aspirations. However it is recognised that the main investments are likely to be beyond PR18 timescales.

Performance and efficiency

Through the NERMU, partners in the North East of England are keen to work more closely with Network Rail to explore more effective ways of working, to improve efficiency and increase interaction between local rail and Metro services.

Reclassification and public spending

Through the industry’s long term planning process and the economic growth aspirations of the North East Combined Authority, the Tees Valley Combined Authority and Transport for the North, whilst accepting responsible financial practices, investment in the rail network in the North is vital to facilitate economic regeneration. The wider economic factors need to be taken into account when considering future investment.

Political and operational devolution

Through the emerging governance for Transport for the North and Rail North Ltd, the NERMU wishes to take an increasingly active role in helping to determine the operation of and investment in local rail networks. This provides opportunities to work with local partners over joint investment planning and delivery. Thus both the North East Combined Authority and the Tees Valley Combined Authority support the need for flexibility in future funding allocations to account for local investment opportunities. In the experience of local authorities in the North East of England, Network Rail has not made it easy to deliver third party enhancements or works. Although local authorities are often prepared to invest in or around Network Rail's assets, these experiences to date have been difficult, expensive and met with slow responses on the part of Network Rail.

Technological change and High Speed 2

Although supportive of a greater use of technology to deliver efficiencies and resultant capacity increases, there are concerns regarding the resilience of the current track infrastructure. Track capacity upgrades will need to be considered along with technology roll outs to enhance the resilience of already stretched sections of infrastructure.

Chapter 3: Focusing the review where it can have most impact for passengers and freight customers

We welcome views on the proposed relative priorities for the review, as well as any other areas that should be prioritised (in which case, we would particularly value views on what should not be prioritised as a consequence).

Two of the most important aspects from a passenger point of view are availability and reliability and thus these priorities should be given due consideration. Therefore when giving high priority focus on efficiency, usage and expansion these should be reviewed with the overarching aim of improving both availability and reliability for passengers. The other factor not directly considered is the cost of travel or value for money for individuals and well as the tax payer. It would be hoped that when considering more efficient and better used railways then some of the benefits accrued should be targeted at increasing the value for money for the individual passenger. Perhaps an incentive relating to value for money of ticketing could be considered as part of the ORR monitoring.

Chapter 4: Our proposed approach to the review

We would like to know if you agree with the overall approach that we have set out for the review.

We would also welcome additional suggestions and proposals for how we might adapt our regulation to the current context. It would be helpful if you could arrange your comments around the headings in the chapter (set out below) where these are relevant to your response.

Route-level regulation

The North East Combined Authority and the Tees Valley Combined Authority are members of both Rail North and Transport for the North, and moving forward we strongly support the focus on route level regulation. There is local and regional support for the idea of a new 'Northern Route' as suggested by the Shaw Report, and the NERMU would like ORR to consider route planning to accommodate this change as it passes through the consultation and decision making process. It would aid the process further down the line if an alternative IIA could be progressed along the same timelines as the current routes.

System operation

The NERMU supports the approach to regulation and monitoring of the system operator as there are key interfaces with routes and through that to passenger satisfaction.

Outputs & monitoring

The NERMU welcomes the suggested approach from ORR, particularly the greater involvement at a more local level of key stakeholders and the focus on passenger satisfaction.

Charges & incentives

The NERMU supports this approach, particularly around the understanding of infrastructure costs.

Approaches for enhancements

There is to be a working paper giving more detail on the treatment of enhancements and the NERMU reserves its comments until that has been published and digested. However the NERMU is keen to see a long term programme developed for investment which will be a mix of route investment and system wide investment. Rail North is seeking to have greater influence over investment decisions as part of a devolved 'Northern Route' proposal. In the North East local authorities' experience, Network Rail has not made third party enhancements or works easy. Although local authorities are often prepared to invest in or around Network Rail's assets, these experiences to date have been difficult, expensive and met with slow responses on the part of Network Rail.

ERTMS and related technology

The NERMU broadly agrees with the proposed approach. However there are opportunities for cost efficiency if delivery is matched with other infrastructure enhancements. For example, HS2 is planned to be 'digital' and thus where this meets the classic network a programme to introduce digital on the whole route prior to HS2 would avoid costs associated with switching between the two technologies. This would also help to deliver the maximum passenger benefits and assist in achieving the Northern Powerhouse Rail East Coast conditional outputs.

Chapter 5: Developing the high-level framework for the review

We welcome views on how our high-level approach could be implemented and on the potential framework set out in chapter 5. As part of this, we invite thoughts on what it is practicable to achieve in PR18 and in CP6, and what might be more realistic to achieve in the subsequent periodic review.¹

We would also welcome any further suggestions and ideas on how we might improve how we regulate Network Rail.

The NERMU broadly agrees with this high level approach. It considers that through joint development of routes between Network Rail and route stakeholders a more effective and more efficient management and development of rail services can be delivered to the benefit of rail passengers.

With regards as to what can be achieved in PR18 and CP6, the NERMU would push for devolution to route based business plans with the inclusion of a route for the North as a further step towards greater devolution to Transport for the North coming through the next review period.

Chapter 6: Process and engagement

We would be grateful for comments on the proposed phases of the review, including any views on the [draft timetable](#) and our proposed approach to engagement.

We also invite high-level views on the process for customer engagement by Network Rail's routes and the system operator to inform their business plans, in terms of what is achievable for this review.

We would also welcome any views on how Network Rail and train operators would like to engage and be involved in the implementation process for PR18 and any thoughts on the process relating to Network Rail's right to object to our determination.

Within the new governance landscape, the NERMU as part of Rail North Ltd would welcome close engagement with Network Rail regarding the development of its Initial Industry Advice and later the route business plans. This is seen as an opportunity to work more closely to achieve the economic growth being pursued by the combined authorities a main plank of which is both incremental and step change improvements in rail services across the north east and improvement connectivity across the North, as well as London, Edinburgh, the rest of Scotland and the Midlands.

Opportunities exist to coordinate investment from the Combined Authorities, the Government, Transport for the North and private sector developers to maximize the benefits for rail

¹ You may also wish to read and comment separately on the working papers that we will publish following this consultation document.

passengers and freight.

Any other points that you would like to make

The NERMU has input into the responses of Rail North Ltd and Transport for the North and the North East Combined Authority and the Tees Valley Combined Authority are active members of these national and sub regional bodies.

Thank you for taking the time to respond.

Rail Delivery Group

Response to:

ORR's Initial Consultation on the 2018 Periodic Review (PR18)

Date : 10th August 2016

Rail Delivery Group Response: ORR's Initial Consultation on the 2018 Periodic Review (PR18)

Name: Bill Davidson

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.

1. Introduction

1.1 Industry Engagement

The RDG set up four working groups in order to get good industry discussion on the issues posed in the initial ORR consultation document and then to continue that engagement throughout the rest of the periodic review process. The members of the working groups comprise representatives from passenger train operators, freight operators, Network Rail, funders and the ORR. This response represents the views from the industry rather than other members of the working groups.

1.2 Structure and status of our response

Our comments in this response follow the same headings, including the questions posed, as set out in the ORR consultation document. We confirm that we are happy for the response to be published on the ORR website.

The initial PR18 consultation document is supported by five working papers that ORR published at various dates in June, July and August. This response does NOT cover the industry views on the working papers, however, we will be responding to each paper in due course.

2. Context for the review

ORR question: This chapter sets out the main issues we consider set the context for the next periodic review. We invite stakeholders to comment on whether they agree or whether they consider there are additional significant points (and if so, to explain how these might affect the review).

We agree with the context for the review described in the initial consultation, including growing demand, reclassification of Network Rail, political and operational devolution and the recommendations in the Shaw report. In addition to these, there is also the franchise reform process that may impact on this periodic review and in this regard it is important that there is alignment between franchising, competition policy and the regulation of Network Rail. This might require reform of franchising to give flexibility to deal with changes in circumstances, e.g. if funding for enhancements were to become more of an ongoing process.

2.1 Overview of what the industry would like to see from the periodic review

To help put the review into context, there are a number of high level outcomes that the industry would like to see from PR18. These are:

- a regulatory framework that supports the work on route devolution that the industry is already doing and one that supports constructive engagement between Network Rail and its customers. The regulatory framework should not determine this engagement, but should support it, because the incentive should be for Network Rail to focus on train operators rather than the ORR;
- a periodic review settlement that is deliverable, not just at a network-wide level but also for each Route. The settlement should also be flexible so that it is able to deal with changing circumstances;

- a framework that recognises the network is a system, with a single Network Rail, with some activities being managed at a route level and others being more efficiently delivered for the benefit of the whole network;
- a framework that is compatible with the new enhancement funding and specification processes being developed by the government for industry planning, and
- a periodic review that is focused on specific areas rather than trying to cover everything, and one that builds on the work done at the 2013 review. It should also build on, and not re-open, the structure of charges work done by the RDG last year. Route regulation is a big change compared with the current regulatory approach. It will, therefore, require considerable industry engagement and analysis to get it right. We suggest that the ORR prioritises its work programme and focuses its efforts only on the most important issues. In addition, we urge the ORR to present its various PR18 initiatives and projects as a coherent work programme.

3. The relative priorities for the review

ORR question: We welcome views on the proposed relative priorities for the review, as well as any other areas that should be prioritised (in which case, we would particularly value views on what should not be prioritised as a consequence).

The consultation document referred to six high level outcomes for what Network Rail delivers and hence things that should be supported by the review. The six outcomes noted by the ORR are for a network that is: (1) more efficient, (2) better used, (3) expanded effectively, (4) safer, (5) available and (6) reliable. In general we agree with the outcomes but consider that one is missing, namely:

- supporting the sustainable development of the railway.

Having said that, we agree with the five priority areas identified by the ORR in Figure 3.2 of its consultation document and have structured our working groups to address each area. The five areas are:

1. Focus on regulating at a route-level.
2. Improve the regulation of system operator.
3. Support new ways to treat enhancements.
4. Increase transparency around costs and improve incentives.
5. Refine the framework for outputs.

The consultation document suggests there is potential for significant change for the first four areas. We agree that that is the case for the top three but consider the area related to costs and incentives is only likely to be an incremental change. This is because the extensive review of the structure of charges that the industry conducted last year concluded that an incremental approach for PR18 was preferred. In terms of route regulation, we believe that the emphasis should be to improve the focus of Network Rail on its train operator customers so that the industry can become more responsive to the needs of end users. We also believe that proposals for route regulation and the system operator could be far reaching and note that there is a lot of work required to understand the full impact on the rail industry.

4. Proposed approach and framework for the review

ORR question: We would like to know if you agree with the overall approach that we have set out for the review. We would also welcome additional suggestions and proposals for how we might adapt our regulation to the current context. It would be helpful if you could arrange

your comments around the following: route-level regulation; system operation; outputs & monitoring; charges & incentives; approaches for enhancements; and ERTMS and related technology.

We welcome views on how our high-level approach could be implemented and on the potential framework set out in chapter 5. As part of this, we invite thoughts on what it is practicable to achieve in PR18 and in CP6, and what might be more realistic to achieve in the subsequent periodic review. We would also welcome any further suggestions and ideas on how we might improve how we regulate Network Rail. You may wish to read and comment separately on the working papers that we will publish following this consultation document.

4.1 Introduction and overall comment on impact of PR18

The bulk of our response provides comments on the proposed approach and framework for PR18. For ease of reading, our comments are listed under separate headings for each topic.

This periodic review is likely to be very different from previous reviews and is an important event for the industry. This is primarily because the industry is facing a period of significant change, such as the move towards greater local decision-making by Network Rail Routes, political devolution and the creation of a system operator and technical authority for network-wide functions. Success will require a significant input from train operators and Network Rail Routes (both during the review and once the new control period is in operation) and will need to rely on effective engagement across the industry. Scarcity of resources could be an issue and this is therefore another reason why we think the review should be tightly focussed as noted in our comments earlier in section 2.1.

4.2 Route regulation

1. The ORR's support for route devolution is welcome.
2. However, the industry is keen to avoid an unduly complex regulatory framework for Route regulation that risks being bureaucratic, creates artificial barriers between Routes or for operators, or places an over emphasis on regulating the process. These might mean a Route places an over importance on the ORR rather than train operators, restrict the ability for the network to manage shocks, or stifle future reforms.
3. The emphasis should be on encouraging effective engagement between Network Rail Routes and train operators – especially in the preparation of the Route Strategic Business Plans (SBPs) including asset management plans. This will help develop joint industry working and ownership with less need for a regulator driven process.
4. It is important to remember that Network Rail will continue to be a single company. Therefore, it would be wrong for any route regulatory framework to duplicate or overlap with the clear responsibility for Network Rail to manage its resources in the best interests of the whole network and hence for funders and tax payers.
5. There are likely to be several areas of Network Rail and customer engagement needed during the periodic review process and throughout CP6. One of these will be for enhancements, where there are existing forums, for example the Route Investment Review Group meetings. For other discussions, it may be necessary to set up new forums. The form of engagement will be likely to vary from Route to Route, however, the principle remains that effective engagement is critical to the success of PR18 and the next control period.
6. A lot of the discussion on Shaw and PR18 has stressed the importance of devolution and the line of sight from passengers and freight end users through passenger train

operating companies (TOCs) and freight operating companies (FOCs) to the Network Rail Route. Therefore, we think it is important that PR18 puts greater emphasis on this line of sight.

7. Network Rail should have flexibility to move activities and resources from one Route to another so as to maximise system wide efficiency and make best use of scarce resources.
8. Network Rail should also have flexibility to move resources between a Route and the System Operator if that is the most effective and efficient way to manage the network. The regulatory framework should facilitate this. Related to this it is important to note that there are interdependencies between the role of a System Operator and that of the Routes; for example the Route and TOC/FOC roles in capacity allocation.
9. Route based regulation should support Network Rail's devolution, as opposed to creating conflicting demands on the company.
10. Routes should only have regulatory targets for what they are actually accountable for. These need to be able to be adjusted with relevant change control.
11. The industry does not support the ORR seeking access to drafts of route business plans before the plans are first developed by the industry because this would imply an emphasis on the ORR rather than customers.
12. There is agreement that Network Rail's borrowing facility should be specified in the Statement of Funds Available.
13. Route regulation should reflect the overall balance of users' priorities.

4.3 Charges and Incentives

1. The rail industry believes that there should be no geographical disaggregation of variable charges to give separate route-based variable usage charges in CP6. This is because the introduction of route-based variable usage charges would result in a significant increase in the complexity of charges and because they are likely to lead to perverse incentives on network utilisation.
2. Similarly Schedule 8 should continue to be based on service groups, i.e how trains run, as opposed to a more route-based categorisation.
3. There is a strong industry request that ORR removes any consideration of Route disaggregation of charges from the PR18 agenda. The reason for this is that it would make the charging arrangements extremely complex and operators would face potentially different charges for trains that cross several Network Rail Routes. This is particularly the case for freight operators where charges are already in marked contrast to those faced by competitors who carry goods by road (where there is a single road tax and fuel levy). The option for disaggregated charges by route would lead to a perverse situation where lightly used rural routes could be more expensive than congested main lines.
4. There is also industry concern that ORR is considering a fundamental review of the total level of variable usage charge even though the industry's structure of charges review last year concluded that this should not be a priority. There is no new evidence to suggest that variable charges are too low and the 2013 periodic review concluded that this would not be revisited, so we are surprised that it is now being considered for PR18. Stability is important in a charging regime, particularly to encourage long term investment in the industry, and the far-reaching changes being considered are not compatible with this objective.
5. Paragraph 4.29 of the consultation document states that the ORR is not proposing to take forward options that directly link charges to the relative value of capacity in different parts of the network. We agree with this, but note that the ORR goes on to state that it will "...need to ensure that the overall charging structure sends sensible signals to make best use of scarce parts of the network.....". We do not understand what is meant by signals or scarce parts of the network and would urge the ORR to

- engage further with the industry and the DfT on this.
6. There is agreement that the use of fines by the ORR on Network Rail is not effective or appropriate.
 7. The PR18 work should build on the RDG Review of Charges and should focus scarce resources on the priority areas identified by the RDG review. The high level conclusion from the RDG review was to focus on the capacity charge and on the performance and possession regimes.
 8. The review of the capacity charge should include the option suggested by RDG last year in its review of the structure of charges, namely to: update Network Rail's Schedule 8 performance benchmarks annually to take account of changes in traffic. This option has some industry support and could remove the need for a capacity charge.
 9. The key principles highlighted in the RDG response to the consultation on Schedules 4 & 8 (dated January 2016) and in the supporting paper by LEK (dated May 2015) are still valid and should be built upon by ORR. These key principles setting out agreement on what each regime should be are noted below. Although we don't propose radical change we believe it is important that PR18 helps to reduce the misunderstanding and misrepresentation of the current regime particularly the difference in purpose of the performance regime and passenger compensation.

Schedule 4 Possessions regime should:

- a. compensate operators for the financial impacts of a planned possession;
- b. be a liquidated sums regime, except for long possessions;
- c. be financially neutral if possession activity is carried out efficiently;
- d. incentivise the industry to minimise the impact of possessions on end-users;
- e. facilitate the efficient use of possessions by all parties;
- f. incentivise operators to provide Network Rail with the access it requires to deliver engineering works;
- g. take account of the financial impact on all industry parties in taking possessions;
- h. be sufficiently flexible to respond to unexpected end-user demand.

Schedule 8 Performance regime should:

- a. be a liquidated sums compensation regime;
- b. be the sole remedy;
- c. be coherent and aligned at every stage from end-users to funders;
- d. reflect end-user needs;
- e. encourage joint industry working to optimise whole-industry performance;
- f. facilitate trade-offs between performance, traffic volumes, and cost;
- g. facilitate accurate and efficient attribution of the root causes of delays and cancellations;
- h. take account of the increased likelihood of delay of running an additional train on the network;
- i. be effective at all levels of performance.

4.4 Regulation of System Operator (SO)

1. The ORR's support for route devolution supported by an SO is welcome.
2. However, the industry is keen to avoid a complex and prescriptive regulatory framework for SO regulation that risks being bureaucratic, driving cost, creates artificial barriers between Routes and national/cross border services or places an over emphasis on regulating the process.
3. These might mean the SO places more importance on the ORR rather than on the Routes and their customers, restrict the ability for the network to manage shocks, or

- stifle future reforms.
4. Instead, the emphasis should be on the engagement between the SO, Network Rail Routes and train operators in: the preparation of the Route business plans, flexibly managing processes, delivering increased capacity, improving production of timetables and developing joint industry working and ownership.
 5. SO regulation should be future proof and flexible. Hence Network Rail should have flexibility to move resources from one Route to another. It should also have flexibility to move resources between a Route and the SO if that is more efficient and effective. The regulatory framework should facilitate this and not set out a prescribed organisational structure.
 6. It is important that everyone understands the role of the SO compared with other Network Rail central functions (including the technical authority) and so we suggest that this is set out in a clear definition and SO outputs. Clarity is also needed on what regulatory framework would apply to Network Rail's other central functions.
 7. Linked to this, we believe the SO should be able to provide services that cover all parts of the GB rail network including HS1, HS2, Heathrow spur, future concessions and all routes managed by Network Rail because it is important to retain the benefits of an integrated network.
 8. The SO's principal relationship is with Routes and infrastructure managers, and through them to operators. There may also be the opportunity for delivering additional services to operators and new access applicants.
 9. The SO should have ability to balance its objectives and hence outputs should be trade-able through a clear balanced scorecard. Any SO activities delivered at Route level should be reported by the Route.
 10. The SO should have the network-wide view and capability to support a single track access contract per operator on Network Rail infrastructure, not one for each Route.
 11. Along with separate outputs for the SO, the review should include assumptions about SO costs. However, we do not think there should be a separate determination and access charge to pay for the SO costs as this would be an added complexity, increase the amount of work needed for PR18 and have little or no benefit.
 12. The SO will need to cope with, and be funded for, an increasing workload relating to ancillary parts of the network (i.e depots and sidings), new capacity reporting requirements and increased levels of congested operation.
 13. The SO should promote the upskilling of train operator and Network Rail staff involved in the timetabling and capacity allocation process.
 14. Capability and effective use of investment; this needs to rebalance away from PPM to capacity. A fixed set of target performance measures may not be appropriate. Quality measures will be important and incentives that encourage cost effective solutions to maximise the capability and efficient utilisation of the current network and plan the future network.

4.5 Refining the output framework

1. The industry supports the aim of increasing the involvement of train operators and other local stakeholders in setting Routes' outputs and for the process to include a focus on passenger and freight shipper requirements.
2. The industry also supports increased transparency in reporting outputs at a Route level.
3. The National Task Force (whose membership includes the ORR and the DfT) has been undertaking much cross-industry work in developing new performance metrics for CP6 and this should form the basis of the outputs framework that ORR is considering as part of PR18. The new performance metrics are, amongst other things, designed to be more reflective of passenger needs.
4. Development of Route scorecards by Network Rail (in consultation with operators),

as endorsed at the NTF and supported by the ORR, should be used as the basis for output measurement and monitoring rather than the ORR developing something different. Some initial progress has already been made on this in CP5 and this should be built on for the CP6 framework. Anything that encourages good communication between Network Rail Routes and train operators in developing Route scorecards and monitoring arrangements is welcomed as this will help develop joint working towards common goals. In turn, this can also facilitate representation in the process of end-user needs through each TOC and FOC.

5. The industry is in agreement that the output framework should be flexible in several regards, namely: (a) the framework should allow changes to Routes, for example in terms of roles and responsibilities, (b) the framework should allow for changes to outputs such as a change in customer requirements or a change in franchise requirements, (c) the framework should also allow for changes in circumstances and to recognise the uncertainty in forecasting some targets, and (d) the framework should incorporate different regulatory approaches in relation to each scorecard output. For example, some outputs may have formal targets, others may have minimum thresholds of required performance and others may have no formal targets or thresholds recognising that there are wider statutory duties (for example, in relation to safety).
6. An effective change control mechanism, including direct user endorsement, can provide a means of supporting the flexibility described in the previous point.
7. The use of fines by the ORR on Network Rail is not considered to be effective or appropriate.

4.6 Treatment of enhancements

1. There needs to be certainty of the funding and financing available for the enhancements that are committed to irrespective of the funding mechanism (PR18 or outside this process).
2. The framework should support the core principles set out in the MoU between Network Rail and the DfT, whereby there are joint decision points between the funder and Network Rail to make sure there is clarity of the commitments being made as schemes progress through the project lifecycle from early stage planning, to development, to design and ultimately to delivery. It is also worth noting that the MoU refers to train operator involvement through applicable Programme Boards. The framework should be applied to all enhancements, irrespective of the funder.
3. Applying this approach will require a more flexible framework that facilitates a “pipeline” process for the enhancements portfolio with the ability to change control programmes and projects in and out of the pipeline at the key stage gateways. These are stop/go points and it could be decided that projects do not proceed to the next stage of the lifecycle if they are not value for money, affordable or deliverable. It is envisaged that outputs, timescales and funding would be agreed stage by stage. The outputs framework would need to be designed to facilitate this approach.
4. There is strong industry support for ring-fenced funds as these are flexible and provide an efficient way for the industry to manage and deliver good value schemes through a suitable governance process.

4.7 Funding of the Digital Railway

The initial consultation comments that there may be insufficient clarity about the timing and funding of the Digital Railway (DR) for this to be included in the ORR determination for CP6. Whilst we can understand this view, we believe it is very important for early agreement to be reached on the funding arrangements, deliverability and affordability of this programme; this

is to provide certainty, allow DR schemes to form part of Route business plans and enable the first stages of the programme to commence in CP6 as planned. It is important to recognise that plans for operation, maintenance and renewals, particularly signalling, will be based on assumptions for the timing of the DR programme and so this link should be reflected in the funding and baseline assumption for PR18.

5. Proposed timescales and engagement

ORR question: We would be grateful for comments on the proposed phases of the review, including any views on the draft timetable (available on line) and our proposed approach to engagement. We also invite high-level views on the process for customer engagement by Network Rail's routes and the system operator to inform their business plans, in terms of what is achievable for this review. We would also welcome any views on how Network Rail and train operators would like to engage and be involved in the implementation process for PR18 and any thoughts on the process relating to Network Rail's right to object to our determination.

We think the overall process would benefit from a coherent plan to show how the various phases in the review link together and how the working papers feed through to policy development and decisions on the regulatory framework. To help achieve this we would like more clarity on the work programme between now and the publication of the draft determination in the summer of 2018 so that we can plan the industry engagement in the process. It is important that this timeline includes dates when key decisions are going to be taken. Given the volume of work required for PR18 we feel an early decision on key issues is essential. It is important to gradually reduce the scope of issues in play to allow practical progress to be made rather than leaving everything open to the end.

We believe the working groups that RDG has set up are an effective way for the industry and wider stakeholders to engage with ORR during the review and we welcome the support ORR has given to them. The groups meet regularly and we have found that there is an open and constructive dialogue. Key points from each meeting are circulated by RDG to group members soon after the meetings and a more formal note is recorded by ORR for publication on its website. We acknowledge that other interested parties have views on the rail industry and the outcome of PR18 and the RDG will seek direct engagement with them wherever possible.

Response to ORR’s initial consultation on the 2018 periodic review of Network Rail (PR18)

This pro-forma is available to those that wish to use it to respond to our consultation. Other forms of response (e.g. letter format) are equally welcome.

Please send your response to pr18@orr.gsi.gov.uk by **10 August 2016**.

Full name	Peter Loosley
Job title	Policy Director
Organisation	Railway Industry Association
Email*	
Telephone number*	

*This information will not be published on our website.

Introduction

1. This note constitutes the formal response of the Railway Industry Association (RIA) to the above consultation document. We have limited our response to those questions of direct relevance to RIA and its members. We are content for this response to be published.
2. RIA is the long-established representative body for the UK-based railway supply sector, with nearly 190 member companies from across the entire field of railway supply with employees of over 30,000 and turnover in excess of £6bn covering the majority of the UK rail supply base.
3. Members include manufacturers, consultancies, contractors and numerous specialist service providers. Most major supply companies are members, together with many SMEs.
4. Before addressing the specific questions below, we would make some general comments to set the supplier context.

Supplier Context

5. An efficient and well-resourced supply chain is fundamental to the successful provision of the services paying passengers expect and deserve. A sustainable UK supply chain is important to both the UK economy and continuous improvement in delivery as highlighted in the recently published Rail Supply Group strategy “Fast Track to the Future”. Given that, it is therefore rather disappointing that the words “supply chain” appear just once in the consultation document (on page 12) and the words “supplier” or “suppliers” not at all.
6. Improving the management of demand is probably the single most important initiative that could improve the efficiency and resourcing of that supply chain with consequent improvement in delivery. Without a visible and stable pipeline of work, suppliers are reluctant to invest in expensive new processes, plant and people which results in sub-optimal delivery

and efficiency (see particularly our responses below to Hendy, paras 3-5, and to Bowe paras i-iv for more detailed exposition of this fundamental point). We would urge that the final approach adopted for PR18 needs to be acutely aware of the impact it might have on the stability of the future work profile, and, by extension, the sustainability of the UK supply chain. It is pertinent to point out here that one of the key areas to address raised by suppliers in the most recent Network Rail Supplier Perception Survey, was the need for a more reliable and visible workload pipeline. We return to this point in a number of our specific answers below



Hendy
Response.docx



Bowe
Response.docx

7. And the rail industry is still plagued by the regular hiatus between Control Periods (CP). Network Rail had hoped that the most recent transition from CP4 to CP5 would be smoothed by the introduction of zero value frameworks to deliver the vast majority of the CP work. This has proved unsuccessful (see 3.7 of our attached letter to Shaw and sub-para vi of the previously mentioned Bowe letter). Our preference has been, and remains, for a rolling investment programme which remains indifferent to the transition from one Control Period to another. One possible way of helping with this could be to establish a funded longer term programme of major projects to sit outside the 5 year Control Periods which latter would deal with the more routine renewals works. It is however important that such an investment programme has certainty of funding and is not subject to annualisation of funding or there is a risk of increasing uncertainty. We need collectively to be very clear what went wrong in CP5 and to ensure that it is remedied for CP6.



Shaw
Response.docx

Chapter 2: Context for the review

We invite stakeholders to comment on whether they agree with our view of the context for PR18 or whether they consider there are additional significant points. (If the latter, please explain how these might affect the review).

A number of things (and a lot of them unexpected) have happened since the publication of the consultation document – eg Brexit; change in Prime Minister and other Government representatives including rail ministers and there are other external factors which may impact upon the future rail programme – eg changes in interest rates and materials costs. It is too early to be certain of the impact of all these but what is clear is that they need to be closely monitored and any changes taken carefully into account during the PR18 negotiations – particularly as passenger and freight growth show no significant signs of abating.

Para 2.9 makes reference to the significant cost increases incurred in major enhancement projects in CP5 which effectively led to the Hendy review. It is clear that if we are not to repeat this in CP6 (or however major enhancements are treated) these projects need to be properly scoped, costed and resourced at the outset. Inadequate initial design leads to delays and increased cost and additional time spent at the beginning of a project, and with early supplier involvement, will be essential if we are to avoid this happening again. The potential of this approach is illustrated by examples, such as the Staffordshire Alliance, where good client/supplier collaboration delivered the project on time and cost.

Chapter 3: Focusing the review where it can have most impact for passengers and freight customers

We welcome views on the proposed relative priorities for the review, as well as any other areas that should be prioritised (in which case, we would particularly value views on what should not be prioritised as a consequence).

With reference to our previous point, the need for improvement in how enhancements are specified, developed and delivered is implicitly recognised in para 3.9 of the consultation. And if major enhancements are to be treated outside of the CP process the need to provide a reliable and stable future pipeline to the supply chain will become even more important for the reasons outlined in our para 6 and 7 above.

It is noted and agreed from your paragraph 3.11 that further work on the treatment of enhancements is an area where significant further work is required and RIA would very much welcome the opportunity to contribute to that work as much as possible (see also our comments on Chapter 6 below).

Chapter 4: Our proposed approach to the review

We would like to know if you agree with the overall approach that we have set out for the review.

We would also welcome additional suggestions and proposals for how we might adapt our regulation to the current context. It would be helpful if you could arrange your comments around the headings in the chapter (set out below) where these are relevant to your response.

Route-level regulation

Given the move towards devolution to the Routes, some form of Route-based regulation would appear to be both inevitable and appropriate. It is not however without its risks. Another of the key issues emerging from the Supplier Perception Survey mentioned in our introductory paragraph 6 above was the lack of consistency in approach experienced by suppliers across

Network Rail and the move towards Route-based Regulation will need to be carefully managed if that issue is to be successfully addressed – if not there is a risk that it will worsen.

The second key risk we see is the potential for greater operator input to route-based decisions to lead to short-term decision-making – driven mainly by the franchise lengths and lifecycles. It will also be important to avoid any eventual route-based indicators/targets leading to similar short-termism from Route Directors.

The first bullet in 4.6 makes reference to routes taking different approaches/opportunities “within an overall structure set by Network Rail centrally”. Any measurement/overview of this central body would need to be carried out in such a way to recognise the delicate balance between an organisation promoting devolution to the Routes whilst at the same time looking to exercise an element of control over them.

And as recognised in 4.9, route-based regulation cannot be allowed to generate 8 times more work which would be simply unmanageable.

This is a complex area which we would be happy to discuss with ORR in greater detail.

System operation

With regard to 4.15, we would agree that it will be important to ensure that any ‘system operator’ regulation must avoid increased devolution to the Routes, leading to a lack of coherence in planning which would, in turn, have a knock-on effect on the supply chain.

Outputs & monitoring

Re-iterating our point made regarding Route-level regulation, there must be a risk in increasing the involvement of train operators in setting outputs as they are likely in some cases to be driven by short-term needs depending upon where they are in their franchise cycle and whether they wish to bid when their franchise comes up for renewal – the incentives and drivers of the various TOCs are likely to vary significantly therefore and this will need to be carefully taken into account.

Charges & incentives

We have no comments at this time upon the proposals as outlined in the consultation although we will be interested to remain aware of developments here – particularly in relation to how charges might better reflect infrastructure costs (4.28 final bullet).

Approaches for enhancements

We have referred to this elsewhere in this response. Key to suppliers is that we arrive at a firm programme of enhancements which is stable and visible which provide a stable platform upon which to plan. In that context there seems to be a suggestion that some of the CP6 enhancement budget could be withheld until such time as more detailed supporting planning and costing information becomes available. Should this be adopted there would need to be a very clear and agreed process for this to avoid any further hiatus. This is another complex issue and we would welcome further dialogue on the approaches for enhancements as part of the future engagement process outlined in our comments on Chapter 6 below.

ERTMS and related technology

We would stress the need for continued early supplier engagement in the planning of the ‘Digital Railway’ programme.

Chapter 5: Developing the high-level framework for the review

We welcome views on how our high-level approach could be implemented and on the potential framework set out in chapter 5. As part of this, we invite thoughts on what it is practicable to achieve in PR18 and in CP6, and what might be more realistic to achieve in the subsequent periodic review.¹

We would also welcome any further suggestions and ideas on how we might improve how we regulate Network Rail.

Key for suppliers will be managing the uncertainties raised in 5.18 – eg cost of staff and materials - changes to the enhancement programme, including scope, timing and cost and indeed the potential risk around interest rates. Two of the constraints/trade-offs outlined in 5.19 (penultimate bullet) are a reduction in volumes of maintenance and renewals and delays to planned enhancements. For the former, this would be a retrograde step which (as is recognised in the narrative) would lead to asset deterioration. We had already seen in the run-up to privatisation the effect that underinvestment had on the network and we must be very careful to ensure that that does not happen again. Similarly, delaying planned enhancements would seriously limit our ability to deal with the continuous growth of passenger and freight volumes putting increased pressure on what in many places is already a febrile network. The continued post-privatisation growth is a great success and it is important that we do not do anything that would either restrict that growth or make it impossible to accommodate.

One further point that does not seem to be directly addressed in the document but which is fundamental to the successful future efficient delivery of the large volume of future work, is the need for greater cross-industry collaboration. RIA has for over 10 years now been an advocate of the need for culture/behavioural change in the railway industry – that is to say moving away from a silo'd adversarial approach to one of collaboration and risk/reward sharing. We would make two related points:

- RIA has its Value Improvement Programme (VIP) initiative which uses facilitated workshops to improve performance, innovation and efficiency through the embedding of collaborative behaviours. Further details are available on the RIA website and see also page 28 of the Railway Supply Group Strategy <http://www.railsupplygroup.org/sector-strategy/>. We would be delighted to discuss further with you the potential use of this tool
- In previous PR submissions we have suggested the introduction by ORR of a collaborative behaviour measure as part of its package. We would be happy to also discuss this with you further

¹ You may also wish to read and comment separately on the working papers that we will publish following this consultation document.

Chapter 6: Process and engagement

We would be grateful for comments on the proposed phases of the review, including any views on the [draft timetable](#) and our proposed approach to engagement.

We also invite high-level views on the process for customer engagement by Network Rail's routes and the system operator to inform their business plans, in terms of what is achievable for this review.

We would also welcome any views on how Network Rail and train operators would like to engage and be involved in the implementation process for PR18 and any thoughts on the process relating to Network Rail's right to object to our determination.

In terms of the draft timetable, we would return to a point made during previous PRs, namely that the gap between the publication of the Network Rail delivery plan (March 2019) and the beginning of CP6 (April 2019) seems very short. Would it not be possible to publish the plan slightly earlier?

In terms of engagement, the process of formal consultation is a necessary one and works well. However, we would again go back to a point made regarding previous PR's which is to keep the associated documentation as brief and clear as possible. Many organisations are simply not resourced to analyse large quantities of detailed technical text. It is encouraging that that is recognised in paragraph 6.10 of the consultation.

Additionally, we welcome the proposed (6.13) use of workshops, working groups and meetings to test and discuss working papers and other proposals. We would add that it will be important for these to be as frequent and interactive as possible, giving stakeholders time and opportunity to challenge and propose alternative approaches.

RIA runs a number of Special Interest Groups, the largest of which is the Infrastructure Clients Infrastructure Group (ICIG). Over 70% of our membership companies belong to ICIG which meets roughly quarterly and would we believe provide a valuable sounding board to test emerging PR18 ideas and proposals.

We would add that the RIA Board would welcome regular updates from ORR at appropriate junctures in the process. The Board consists of senior members of the industry representing the broad spread of our Membership and therefore offers ORR the opportunity to seek the views of a relevant cross-section of senior players within the industry.

RIA is also a member of the Rail Supply Group (RSG) and currently shares a Chairman with RSG. This response is entirely consistent with the RSG strategy and we would propose that for further stages of engagement RIA will ensure that RSG views are canvassed and appropriately represented.

Finally as part of the process to optimise the above engagement we have instigated a series of 'regular' discussions with John Larkinson and Graham Richards as ORR's thinking develops. We very much welcome this and believe it important that such discussions continue.

Any other points that you would like to make

RIA remains ready to contribute in any way it can, via itself, its Board or its members, to ORR's thinking throughout the PR18 process and we would be very happy to discuss any aspect of this response.in more detail in our above-mentioned 'regulars'.

Thank you for taking the time to respond.

2018 Periodic Review of Network Rail (PR18) - Initial Consultation and Working Papers 1-3

Response from Rail Freight Group

July 2016

1. Rail Freight Group (RFG) is pleased to respond to the ORR's Initial Consultation on PR18, and the Working Papers 1-4 issued in parallel. No part of this response is confidential.
2. RFG is the representative body for rail freight in the UK. We represent around 120 member companies who are active across the rail freight sector, including train operators, end customers, ports, terminal operators and developers, rolling stock businesses and support services. Our aim is to increase the volume of goods moved by rail.
3. RFG is participating in the RDG Working Groups on PR18, and in the DfT working group on charges, part of DfT's freight strategy workstream. Our comments in this response reflect our overall position as RFG which should be read alongside the industry views from these working groups.

General Comments

4. There can be no doubt over the importance of periodic reviews to the rail freight sector. As independent, private sector business without direct Government contracts, the impact of changes in railway charges, incentives and structure has a direct and immediate impact on the financial position of freight operators and their customers.
5. With most rail business being in direct competition with road freight, the consequential impacts of increased charges or other costs on modal shift must be a key consideration for all aspects of this review. Analysis by ORR during PR13 highlighted that most market sectors are unable to withstand an increase in charges without loss of traffic to road. Such a move would therefore lead to a reduction in environmental and economic benefits to the UK, and whilst some rail costs would be saved, there would be a resulting increase in road costs.
6. Increased charges also impact on the ability and desire of the sector, both operators and end customers, to invest in rail freight. Conversely, stable and simple charging can help to support this investment, which in turn is helping the efficiency of the sector, for example in longer and better loaded trains.
7. It is therefore imperative that work to determine costs and charges for freight is executed as quickly and as simply as possible in the review, and that a holistic assessment of charges is undertaken to ensure that the overall result maintains affordability for the sector. Given the scale of activity implied by the overall programme for PR18, ORR should look to prioritise only those areas of work where there are expected to be significant benefits and consider which, if any,

elements of work relating to freight charges should be prioritised.

8. We note the work that is underway to look at how DfT might continue to support the rail freight sector if charges become unaffordable (under the FISG group and DfT rail strategy workstreams). Whilst we support this work, it must be clear that this is a backstop provision rather than a desired outcome. As the work to date indicates that many options are not legally possible, and that others have major downsides in resource allocation, ORR should look to avoid such an outcome as far as is possible.
9. We note that, unlike in previous periodic reviews, a key focus is on the structure of the regulatory settlement, as well as on the charges themselves. This is inevitable given Network Rail's devolution and the recommendations of the Shaw report. We also note that the review is taking place in parallel with other changes, which are not yet fully included in the consultation, such as the Virtual Route for Freight and Cross Country. Our response provides our initial comments on these plans, recognising that there is much detail yet to be developed.

Specific Comments

Chapter 2 – Context for the Review

10. Network Rail's plans for devolution are not yet fully articulated. The announcement of the Virtual Route for freight and cross country has been widely welcomed, and is seen as a positive move for the freight sector. However there are yet many details to be established around the relative roles of the Virtual and geographic routes, and the system operator.
11. It will be important that Network Rail is free to develop their structure, rather than this being led by plans for its regulation. Early sight of the structure will also be important to allow operators and the wider sector to provide coherent feedback on how regulation can best support the desired outcome from any proposed framework.
12. Whilst it is not a matter for this review as such, we would expect to see greater clarity from Network Rail in coming months on areas including;
 - a. The external Governance of geographic and virtual routes (Route Boards etc.) and System Operator;
 - b. The internal Governance within Network Rail including decision making and authority between routes, and the role of the centre and of the system operator;
 - c. Clarity on engagement with operators, both formal and informal, including for freight consideration of how engagement with the geographic routes, as well as the virtual route is secured;
 - d. Clarity on engagement with freight customers, ports etc., and with passenger representatives;

- e. How costs and charges will be paid and allocated between routes, noting the imperative of a single national variable access charge.
13. Separately, the decision by Government to channel the network grant through train operators could have implications for the freight sector. Although we have been assured it is unlikely that any part of the network grant would be passed via the freight operators, we have yet to see a final decision on this, or any conclusions on what alternative mechanism might be used. This will need to be resolved as part of this work.
 14. In addition there needs to be rapid clarification from Government whether they do or do not intend to expose franchises to any change in access charges – and to what degree. This is important as if there is no intention to do so, the impact of any change is limited to freight and open access, and the priority of that element of work should be assessed accordingly.
 15. The context for freight has also shifted since the last periodic review, with the ongoing and sharp decline of coal. This has a number of implications for the review, not least around the ongoing applicability of charges levied specifically on that market (coal spillage charge and most of the freight specific charge). We welcome the early assessment that the coal spillage charge should be stopped.
 16. The shrink in volume has also overall financial position of the freight operators, and their ability to absorb any increase in charges. The work that ORR did during PR13 highlighted that most market sectors could not afford an increase in charges without some reverse modal shift, and this position is highly unlikely to have changed.
 17. It remains the case that any significant increase in the overall level of charges paid by freight will be difficult, indeed impossible, to absorb, and is likely to lead to reverse modal shift or reduced growth. Road costs remain highly competitive, helped by a prolonged freezing of fuel duty and a low oil price. We note that elements of the CP5 settlement included caps on certain charges and the treatment of this will also need to be resolved.

Chapter 3 – Focussing the Review

18. We agree that given the scale of the challenge, and the relative immaturity and fluidity of Network Rail's new structure, the review must prioritise the key areas for action. Broadly, we agree with the proposed areas. We question whether significant work to assess and change freight access charges is an equal priority given the scale of expected work in other areas.
19. We understand and support the need to reduce Network Rail's costs. Freight operators have, particularly over the last five to ten years, responded to incentives to do this, for example,
 - a. Widespread introduction of track friendly bogies

- b. Running significantly fewer trains on the network (as a result of efficiency, even prior to the recent decline in coal)
 - c. Improving loading of services to run more goods on fewer trains
 - d. A step change in performance
 - e. Releasing unused paths into strategic capacity and white space
 - f. Measures, at the time, to reduce coal spillage
20. Yet despite these measures, freight operators have seen access charges increase, and face the possibility of a further increase in this review. This suggests that the link between operator action and the costs they face is not working. Whilst Network Rail's fixed costs *may* have reduced in consequence, there is no understanding of this reduction, nor any feed through into lower charges.
21. This failure to link action with reduced charges could significantly weaken the incentive on freight operators to pursue such measures in future. We therefore consider it essential that;
- a. Incentives on operators are clear, deliverable and specifically linked to outcomes;
 - b. Operators feel that they share in the gain from taking the 'right' action;
 - c. The regulated outputs take into account measures to support the efficiency of operators as well as of Network Rail, particularly if operators will not see reduced charges as a consequence of their actions.
22. ORR must also continue to challenge Network Rail to be more efficient in absolute terms, not just in reduced activity or by incentivising lower train movements.

Chapter 4 – Proposed Approach

Route Based Regulation

23. As outlined above, it is difficult to fully comment on proposals for route based regulation given the current early development of Network Rail's own plans for route devolution. In particular, the plans for how the virtual route will operate within the devolved structure have yet to be confirmed, and therefore it is difficult to comment on how best it should be regulated. The working paper needs to be updated in light of this development, as the virtual Route is missing from various diagrams and text.
24. We are however clear that the virtual route must be on an equivalent footing to the geographical routes, as far as is possible, (as defined in the Shaw report) and is not to be considered as some subsidiary function of the System Operator, or otherwise
25. We would therefore expect that ORR will need to consider how it chooses to regulate the virtual route, with particular regard to;

- a. An equivalent process for developing a route business plan, including the engagement with operators and the wider freight sector;
- b. The financial flow of costs and revenues to and from the virtual route, albeit that there will not be the same financial framework or regulated settlement as for the geographic routes. This should ensure that there remains a single, national freight charge, and also that the virtual route is adequately funded for its activities.
- c. The regulation of key outputs of the Virtual route, and how they interact with the geographic routes and system operator on areas where shared action is necessary for delivery.

26. More generally, route based regulation should not lead to additional complexity/cost for operators and customers, and should enable Network Rail to retain flexibility to operate a national network effectively.

Improving System Operation

27. As with route based regulation it is difficult to comment on how the system operator should be regulated until there is further clarity on its structure and roles. However we agree that it is a critical area, and one which requires further development. As such targeted and effective regulation should have a role to play.

28. For rail freight, the poor quality of timetabling on the network is currently one of the greatest barriers to cost efficiency. In particular, the impact of poor end to end journey times prohibits effective asset use, and looping causes higher than necessary fuel costs, and is a performance risk particularly with low speed junctions to and from loops. The management of strategic capacity is also poor.

29. Whilst we recognise the complexities of a mixed traffic railway, and that freight is considered as a marginal user, Network Rail do not appear to be equipped to look at different options which may help network efficiency, and are reluctant to use tools they already have, such as flexing rights.

30. We believe therefore that there should be a specific regulated target on the system operator related to freight efficiency – for example, in improving attained average velocity on the network.

31. The Working Paper 2 references potential weakness in the TPRs which may also contribute to this, and to a lack of technological innovation which might hinder timetable development. Regulation of the System Operator should target areas such as this, at least for the upcoming five year period, to support necessary investment in tools and resources.

32. The Working Paper 2 makes repeated references to trade – offs, and to assessing the value of services as part of timetabling. This would require much greater definition and clarity on outcomes than is presented here. For freight, we

would not expect to see challenges to existing rights and strategic capacity arising from such approaches. The priority is surely to improve timetabling, not to 'price off' services from the network.

33. Working paper 3 makes an explicit reference (3.10) to levying an additional charge on operators to fund the System Operator. We oppose this, given that system operation is a fundamental activity of any infrastructure management and should be covered in the core funding settlement.

Refining the Framework for Outputs

34. We agree that the setting of appropriate outputs is important to drive the right behaviour for Network Rail, operators and customers. It is also important to set a simple framework which drives key improvements and does not lead to perverse outcomes.
35. Network Rail should clarify how they anticipate working with freight operators and the wider sector in developing the (freight) scorecard for the Virtual route. The discussion in paras 2.15- 2.18 of the working paper references this, but does not clarify the need for a scorecard for the Virtual route, or how freight outcomes might be represented across routes.
36. Network Rail will also need to decide how national measures, such as FDM, should be allocated between routes. It will be essential that all routes are fully incentivised to deliver outcomes such as FDM, even if they are principally a target for the virtual route (and vice versa for other measures).
37. We broadly agree with the proposed areas in the working paper. We would particularly support;
- a. Retention of FDM for freight performance (and not, as per para 4.62, freight delay minutes) which would apply across all routes
 - b. A new output aimed at improving the efficiency of freight operations which could be around improving freight journey times or average attained velocity, which should be an output for the system operator
 - c. Ongoing regulation of capability, and network availability as now.
38. We support the ongoing survey of freight operator and customer satisfaction, but question whether it needs to be a regulated outcome.

Costs and Incentives

39. We note that further consultation on charges and incentives is expected later this year, and that at this stage, detailed proposals are not fully understood.
40. Although the early engagement in this consultation therefore remains high level, we have been concerned over proposals tabled at the RDG working groups regarding ORR's more detailed plans for charges. These plans appear to include geographic disaggregation of the variable charge, and reopening the approach to calculating charges, based on previous studies by University of Leeds. This risks

a potential increase in access charges, and adding significantly complexity to the regime.

41. Although we have been assured that a holistic assessment of charges will be undertaken, it remains unclear how this will be done. For example, work to look at the capacity charge, which has been identified as a priority by RDG, is not being captured presently either in the charges work or the Schedule 4 and 8 work.
42. It is wholly unclear to us how geographic disaggregation of charges will provide any significant incentive effect for freight operators, whose choice of route is limited and whose services operate in response to customer demand. Even for passenger operators, and to the extent they are exposed to charges, the ability to respond to such an incentive is limited.
43. Whilst there may be interest in understanding the factors which influence costs, the necessity to translate into charges is at best unproven. A clear statement of the incentives which are expected to be delivered is needed, and an understanding of the specific actions which are expected in response should be made. Given the necessity to supplement with a scarcity charge, the likely impact of geographic disaggregation will be an increase in access charges, which will lead to negative outcomes for freight.
44. The calculation of variable costs was considered extensively during PR13 and we are unclear why ORR wishes to reopen the evaluation. The recent Implementing Act on direct costs is also relevant at least until the UK exits the EU.
45. Our specific comments at this stage are therefore;
 - a. ORR should rapidly prioritise the overall work programme for PR18 and confirm why any significant rework of charges is a key priority for this review, given the extensive work required in other areas.
 - b. A holistic approach must be taken to all costs and charges, recognising that operators are exposed to the totality of changes. This includes the capacity charge, and schedules 4 and 8 as well as the variable charge. Any significant increase in freight charges will lead to traffic reduction, and this must be explicitly understood in the context of Government policy for rail freight.
 - c. ORR should be clear on the outcomes for operators and customers that they expect geographic charges to deliver, and be able to explain how and why those outcomes are beneficial to the railway as a whole. Incentives must be realistic and deliverable and aligned to customer needs.
 - d. Freight must maintain a national charging structure and a single freight charge which does not differentiate between competing customers on different routes. Any proposals for geographic charges must be absolutely explicit in their intent and the behaviour they intend to drive.

Enhancements

46. We note the desire from Government and ORR to explore alternative ways of specifying, and managing, enhancements. We absolutely recognise the difficulties with the CP5 enhancement programme, and support the aim of a better, well managed process for CP6 and beyond.
47. It is yet too early to understand the specific proposals and how they might impact on freight. However;
- a. There must continue to be an appropriate framework for specifying freight enhancements should Government wish to fund them. This should include ring fenced funds such as Strategic Freight Network.
 - b. There must be an appropriate way of supporting projects which cross Network Rail route boundaries
 - c. There must continue to be a strategic approach to projects which provides a longer term pipeline of work and avoids short term decision making.
 - d. Network Rail must be incentivised to make significant improvements in its enhancement programme including portfolio management as well as on individual schemes.
48. There are significant implications from the ERTMS programme for freight, and any approach to this must ensure that freight is not disadvantaged. This includes costs and programme of locomotive fitment, operational requirements and policy and regulatory changes.

Chapter 5 – High Level Framework

49. Overall, we consider that the ORR's agenda for PR18 is significant, and there may need to be a pragmatic approach to prioritisation of activity in the available time and resource.
50. As outlined above, we expect that ORR will consider how the virtual route aligns with the proposed approach, as this is not included in the consultation.

Chapter 6 – Process and Engagement

51. We welcome the early engagement from ORR, and the open process to date. As outlined above, we consider that some elements, such as engagement with operators, are a matter for Network Rail to determine in the first instance, and ORR should work with Network Rail to ensure that regulation does not lead the approach, but respond to it.
52. There must be ongoing debate throughout the process, and there should be clear line of sight on how ORR has responded to feedback, and how they intend to prioritise their work plan accordingly.



National Union of Rail, Maritime & Transport Workers

Response to the PR18 Initial Consultation Document

Introduction

The National Union of Rail, Maritime and Transport Workers (RMT) welcomes the opportunity to respond to the 2018 Periodic Review of Network Rail (PR18) – Initial Consultation.

The RMT is the largest of the rail unions and organises 80,000 members across all sectors of the transport industry. We negotiate on behalf of our members with some 150 employers including Network Rail and much of its supply chain.

We look forward to engaging fully in the periodic review process.

Executive Summary

- Transparency
 - RMT is disappointed that the trade unions are not mentioned in the consultation document and believe that the unions have a vital role to play in ensuring a successful periodic review.
 - There is a growing need for real transparency surrounding leakages resulting from private commercial operations on the railway and for the ORR as the economic regulator to collect data relating to these leakages.
- Devolution
 - It is essential that enhancements, maintenance and renewals continue to be guided by a single body, and that the workforce for each type of infrastructure work be returned in house.
- Enhancements
 - RMT believes that there must be greater recognition of the interdependence of enhancements with maintenance and renewals through the workforce.
 - Enhancements work must be delivered through PR18 and those projects covered by Hendy need to be robustly ring-fenced within PR18.
 - Private capital is unsuitable for the rail industry, and at this stage is an expensive distraction from the need for all rail infrastructure works to be consolidated within Network Rail.
 - The uncertainty surrounding the Digital Railway must be addressed in the HLOS, and the decision reflected within PR18 funding.
 - Network Rail should assume responsibility for High Speed Rail.
- Renewals
 - RMT believes that the entire renewals workforce should be returned in-house and that this is the only way to address the shortages in the skills base which is intensified by regular competition for staff across the renewals and enhancement projects, on a temporary and precarious basis.
 - RMT believes that the backlog of renewals work must be addressed in CP6, with the funding required ring-fenced for that specific purpose.
- Funding
 - RMT believes that the lack of progress in CP5 (due to unrealistic constraints), and the consequent backlog of work now being transferred to CP6, necessitates a substantial injection of funds into the network through PR18.
 - RMT argues that critical to the success of Network Rail and its ability to maintain safety standards, deliver enhancements, and to develop and retain a satisfactory skills basis is the length of the funding cycle which should be substantially increased.
- Safety

- RMT is concerned that in the consultation document there is little focus on ongoing safety issues on the network and believes that:
 - The backlog of safety critical maintenance and renewals work needs to be addressed with specific funding ring-fenced to do so.
 - That the removal of all level crossings should be a key aim within CP6.
- Benchmarking
 - RMT welcomes the abandonment of bogus international benchmarking but continues to believe genuine international benchmarking could be undertaken on a like-for-like basis with other national networks run in the public sector.
 - RMT is cautious about comparisons between routes which we believe may lead to the denigration of public status of routes to provide comparators under alternative structural models, and ultimately lead to a race to the bottom.

Background

Prior to directly addressing the consultation document, we wish to outline our key concerns as follows and also explore a number of specific workforce related issues. We recognise that the context for the PR18 process has been set by the Shaw, Bowe and Hendy reports but further to that we would like to emphasise:

- The review needs to recognise that Network Rail was created as a Not for Dividend company in direct response to a succession of fatal rail crashes:
 - The **Southall** rail crash in 1997 which left seven dead, 139 injured
 - **Paddington** two years later - 31 dead, 250 injured
 - **Hatfield**, a year after that, 4 dead seventy injured
 - And two years after that **Potters Bar**, 7 dead 70 injured.
- RMT is deeply concerned that the option of developing Network Rail as part of a fully vertically integrated railway in public ownership was not given any priority in the Shaw review process. The study seemed to pose leading questions towards the benefits of privatisation or partial privatisation and a negative view of Network Rail remaining in the public sector.
- Notwithstanding the above the benefits of retaining Network Rail as a national integrated publicly owned infrastructure manager should be recognised, particularly in terms of
 - a) efficiencies realised through unifying and bringing maintenance in – house
 - b) making the UK one of the safest railways in Europe
 - c) successful expansion of railway capacity and the ability to direct national income to cross invest on a national basis
- RMT supports the analysis and proposed structure of Network Rail as contained in the Stittle report (attached).
- RMT believes that Network Rail should not be fragmented and/or privatised as this would have an adverse impact on safety, efficiency, costs, investment, the skills base and industrial relations.

- Devolution within Network Rail will lead to further costs and will have adverse planning implications. We are also concerned that devolution could lead to the end of national bargaining and regional negotiations which will lead to a complex array of terms and conditions, “leapfrogging” and industrial relations problems.
- RMT believes that caution must be applied to the data used by the Shaw Report Team so as not to fall foul of similar untruths and inaccuracies as the McNulty report, which both the ORR and Network Rail fell foul of in PR13.
- It is essential that the value of returning the maintenance workforce in-house is recognised, and that such an approach is adopted with regard to renewals and enhancements.
- A longer term planning and funding process is needed to ensure the development of economies of scale, efficient delivery and the maintenance of an adequate skills base.
- RMT believes that greater integration of the rail industry, within the public sector, is the best condition that will allow for the debt to be controlled, by its rate of accrual being slowed.

Great Productivity through a unified workforce

There is strong evidence to suggest that prior to privatisation, that British Rail recorded the highest labour productivity of any railway in Europe, with also a lower public subsidy than any other European Country.¹

Dr John Stittle notes that “by way of comparison, the state owned British Rail was described as ‘perhaps the most financially successful railway in Europe’. Government subsidy was 15% of revenue in 1994, making BR ‘the least subsidised railway system in Europe².’ Overall state subsidy was 0.16% of Gross Domestic Product (GDP) compared to the European average of 0.52% (Harris and Godward, 1997, p. 52). British Rail in the early 1990s, despite a chronic shortage of investment funding, was remarkably cost-efficient by international standards. Labour productivity (defined as train-kilometers per employee) ‘rose by 17% between 1987 and 1994...and was the highest in Europe.’”

RMT has consistently outlined that the fragmentation of the industry has resulted in increased costs as a result of the creation of unnecessary interfaces and duplication. We would also contend that the fragmentation of the industry has also resulted in a far less effective use of its most important asset – the workforce.

Professor Jean Shaol has identified a number of consequences of moving virtually overnight from an integrated single workforce working in the public interest as one company to a fragmented workforce employed by scores of private companies primarily defined by their contractual commercial relationships with each other.

- The loss of strategic direction, wasteful duplication of knowledge, skills, activities and services,

¹ Jean Shoal 2004, Renaissance delayed, New Labour and the Railways

²Shaoul, J (2004), ‘Railpolitik: The Financial Realities of Operating Britain's National Railways’, Public Money & Management, 24:1, pp27-36. p. 29.

- Large sections of the workforce are employed administering an excessive bureaucracy and contractual arrangements instead of “running the railway”,
- The replacement of primarily collaborative relationships with adversarial relationships with an increased tendency to pass responsibility or blame to other agencies rather than learning lessons and providing solutions.
- The loss of a shared commitment to the overall service that a proper public service ethos can bring

Perhaps the most significant loss of productivity from fragmenting the workforce has also been well defined by Shoal,

“...one of the most devastating consequences of the privatisation process was the fragmentation and loss of industry knowledge. Running a railway – making decisions about investment, timetabling, safety, workforce deployment – requires an intimate acquaintance with changing infrastructure conditions, technological possibilities and service requirements throughout the network, that in the case of British Rail was held collectively by its workforce and managers and brought to bear upon decision-making through systems of cooperation and communication at all levels of the industry.

This organisational knowledge base, never wholly centralised and much of it effectively tacit, was dissipated with the breakup of the industry. Many highly skilled engineers who knew things about the railway network that no one else did lost their jobs; some hired that knowledge back to the industry as private consultants. Habits of information sharing and freely given advice were interrupted by the requirements of commercial confidentiality. Hard-won accumulations of local and specialised knowledge were lost in the shift to an increasingly casualised and individualized workforce.”

RMT believes that the ORR must recognise the productivity benefits of work being undertaken in-house and also acknowledge the benefits of a long term funding cycle accompanied by workforce planning.

As stated earlier, prior to privatisation, British Rail recorded the highest labour productivity of any railway in Europe, with also a lower public subsidy than any other European country³ and following the disastrous experiment of RailTrack infrastructure maintenance had to be returned in-house. Dr John Stittle has highlighted the importance of maintenance work being undertaken in-house and an end to the outsourcing of maintenance:

“Once NR acquired the infrastructure, its deputy chairman at the time, Ian Coucher was clear about the failings of out-sourcing maintenance: the railway does not ‘lend itself to output-based specifications, which give people the freedom to decide how to do it and when they're going to do it. It makes it very difficult to change something if you are not quite sure what people are doing out in the field.’ In a warning that the ORR should heed, Coucher⁴ also cautioned that when ‘every contract was renegotiated locally by the regions... you ended up with a large amount of variations. Some were cost-plus, some had special performance regimes - it was a real mess.’”

³ Jean Shoal 2004, Renaissance delayed, New Labour and the Railways

⁴ <http://www.railwaygazette.com/news/single-view/view/uk-brings-infrastructure-maintenance-back-in-house.html>

The McNulty report added that Network Rail has saved £400m a year through unifying and bringing rail maintenance in house.

It is therefore of concern that despite the clear benefits of workforce integration and bringing work in-house in Network Rail are still overly reliant on outsourcing. For example in respect of the renewals workforce where some 88,000 PTS (Personal Track Safety) cardholders, 67,000 are not directly employed by Network Rail. Of these 67,000 RMT believes that less than 10% are full-time employed and that the remainder may well be working under bogus self-employment on zero-hours contracts. In some cases an individual worker may be sponsored by up to 8 contractors at any one time, and in an extreme case by up to 20 contractors. This means it is extremely difficult to regulate working hours and quality.

Network Rail is majority funded by the taxpayer and it is clear that the taxpayer is now paying for a largely casualised workforce, with potentially serious consequences in a safety critical industry. In addition, the activities of payroll companies cost the Treasury millions every year.

Network Rail intend on increasing use of contractors and according to the Network Rail Strategic Business Plan January 2013 “Overall, headcount is projected to reduce over CP5 by around 1,050, which is equivalent to a reduction of eight per cent in total workforce....Track direct employees have the greatest absolute reduction of around 800...We will achieve efficiencies of 18 per cent by the end of CP5 by making greater use of Tier 2 contractors...”

The Office of Rail Regulation, when questioned by RMT, acknowledged that zero hours contracts “appear to be a common form of securing staff for the engineering contract business” and stated that they are “mindful of the considerable risks that can arise from safety critical staff working for more than one employer”.

Furthermore, Ian Prosser, the Director of Railway Safety in the Office of Rail Regulation has stated that “The widespread use of notionally ‘self-employed’ staff on zero hour contracts has some immediate and short term benefits with regard to staff flexibility and costs, it has a generally negative effect on the attitudes and behaviour of those involved, which is not conducive to the development of a safe railway”.

A number of labour only suppliers which Network Rail engages are shown in the following table. This table also shows how many workers are actually employed by these labour only suppliers. This information differs dramatically from what the companies themselves claim. For example, McGinley Support Services Ltd (whose accounts state have 111 employees) claim “one of the largest family run staffing business in the UK employing some 250 staff, supply over 3,000 people every day on temporary contracts” or Cleshar Contract Services Ltd (whose accounts state that only 8 people are employed) claim “more than 1,200 trained and experienced operatives and a fleet of 250 vehicles”.

Labour only suppliers, and other employment agencies, commonly use payroll companies and a significant proportion of those below do. In many cases the worker has little choice as to which payroll/umbrella company is to be used, and in many cases those companies are closely linked to the contractor – such as through common directors. This could not take place if the workers were directly employed, as opposed to being sponsored.

It is obvious that Network Rail is the most significant client of these Labour Only Suppliers and as such is actively encouraging bad practice. Furthermore, many of the murky employment practices are designed to actively avoid taxation and so have a negative impact on the Treasury.

Labour Only Supplier	Revenue £m (in last available annual accounts)	No of Employees (in last available annual accounts)
McGinley Support Services Ltd	48.9	111
Vital Rail Ltd	21.3	17
Bridgeway Consulting Ltd	13.2	305
Malla Rail Ltd	7.3	31
TES2000 Ltd	7.3	255
Coyle Personnel Plc	61.4	112
SW Global Resourcing Ltd	13.8	240
MDA Rail Ltd	N/A	163
Cleshar Contract Services Ltd	64.5	8
Further 30 suppliers provide 20% of spend		
Total	241.6 (of figures available)	1242 (of figures available)

Further fragmentation or devolution and particularly privatisation will exacerbate these problems described above.

Instead the ORR should instead positively consider both the safety and economic benefits of bringing work in-house, such as renewals, on a unified basis as recognised by Ian Coucher, the McNulty report and numerous academics.

PR18 provides the opportunity to end the current levels of casualisation and fragmentation in the Network Rail workforce and to increase safety levels as a result, by bringing renewals work back in-house.

Workforce: skill

Another area of particular importance are the ongoing skills shortage and the detrimental impact that the current levels of fragmentation and casualisation of the renewals workforce are having as a direct result of the entry of private contractors into the industry.

The evidence of skills shortage in the rail sector is included in the Tier 2 Shortage Occupation List for the period starting on 6 April 2015 - produced by the UK Visa & Immigration section of the Home Office - which lists all of the UK-wide shortage occupations for Tier 2 of the points-based system. Skilled railway jobs have appeared on the List over a number of years now and the skills shortage on our rail network is a direct consequence of the short-term funding cycles for Network Rail.

General

RMT believes that now is the time for the ORR to work towards producing an ambitious programme of investment in, and rationalisation of, the rail industry. However, given our experience of the most recent periodic review processes, which have been driven by the austerity agenda (ie. ideologically) we cautiously welcome the acknowledgement by ORR that “the expectations for the company will need to be realistic and informed by the likely level of performance at the end of the current control period in 2019”.

We also note the recognition by ORR that the wider fiscal constraints on governments are “likely to reduce the scope for new substantial capital investment to accommodate growing demand” and believe that the best overall approach which can be taken in PR18 is to consolidate the functions and workforce of Network Rail and work to ensure that backlogs in maintenance and renewals are dealt with, that safety critical work is carried out on-time in order to ensure that the infrastructure is not further denigrated, and that leakages (both financial and in safety terms) are addressed by the return of functions and the contractor workforce in-house.

It is essential that the change in the status of Network Rail, and the consequent direct impact on public finance of railway spending, does not result in the compromise of safety or the railway being less equipped to address growing demand. For this reason, whilst heightened public accountability is welcome, RMT believes that the funding cycle should be extended to beyond a five year period under a long term planning process, to ensure that it does not fall foul of either the temporary interests of elected representatives or the short term avarice of the private sector.

Furthermore, RMT rejects the assertion that private sector interests be characterised as “customers” of Network Rail given that they are publically subsidised and have recently had the Network Grant re-routed through their coffers. Passengers and taxpayers along with society and the economy as a whole should be considered to be the customers of Network Rail as they are the end users, beneficiaries and funders of the network.

RMT believes that the periodic review process needs to be strengthened and its remit increased to ensure long term planning. Furthermore, it should not be solely efficiencies driven but also take into account the wider value of the industry to both the economy and society as a whole.

Transparency

RMT notes that the document has no reference in it to trade unions, although we accept it refers on a number of occasions to ‘stakeholders’. Many of the dedicated and skilled people employed in the delivery, maintenance and operation of the railway belong to trade unions and RMT want to see a positive engagement strategy with the trade unions enshrined within the process and throughout the documentation and determinations. There must be a recognition that working with the trade unions is the only way to ensure the high level outcomes desired are delivered.

There has been minimal union involvement in the periodic reviews and the unions should be given the same status as other industry bodies. This arms length approach to the unions is not confined to the periodic review. For example the unions have also been denied membership of the Rail Delivery Group.

RMT welcomes that the ORR highlights that “it will also be important to increase transparency around the cost drivers of the network” and believe that data should be collected and made publically available so as the various leakages from the industry, especially through dividends and off-shoring of profits, can be addressed.

RMT believes that a single regulator should not be responsible for both economic and safety regulation as there is a fundamental conflict/tension between both roles.

Network Rail should be directly accountable to the Secretary of State who in return is accountable to Parliament. Ways could be explored as to how Network Rail could be more responsive including exploring a supervisory board with representation from the trade unions, passenger bodies and regional and devolved bodies.

We believe there is not a useful role for the ORR whose warped determination of efficiency has led to a feast and famine approach in the industry and the loss of skilled rail jobs. We agree with the Bowe report that the role of the ORR needs to be reviewed to see if it actually adds anything that could not be achieved by government and Network Rail themselves.

Devolution

RMT is concerned that the Shaw Report and now the PR18 Initial Consultation have failed to take into account the option to bring Network Rail within the remit of a single, integrated, publically owned and accountable body which would be responsible for managing Britain’s rail industry and services as a whole. By choosing to ignore this potential, a skewed approach has been adopted towards the rail industry in which public services will continue to be delivered in order to satisfy the short term interests of private capital, with an increased number of interfaces and consequently increased inefficiencies and safety concerns.

RMT believes that Network Rail should not be fragmented and/or privatised. It is essential to ensure that the ORR does further advance the fragmentation of Network Rail. Network Rail’s successful expansion of railway capacity and the ability to direct national income to cross invest on a national basis should be recognised and protected.

RMT believes that economies of scale are best achieved through a centralised structure and that such a structure should include strategic control and management, economic cohesion, industrial integration, social unity and cohesion of the railway as a whole. Additionally the setting of strategic, economic, social and technical policy directions can only be achieved efficiently when undertaken centrally. The coordination of activity between train and track is another function where a national centre can gain improvements, in addition to raising revenue from real estate and managing (with a view to reducing) the rate at which debt is accrued.

RMT supports the view of Dr Stittle, when responding to the Shaw review, that:

“Devolution of functions in Network Rail also poses problems. It will increase interface complexities, lead to higher fragmentation costs and may have serious national planning and project implications. Moreover it is inappropriate having eight separate divisions perhaps with varying forms of investment, different methods and levels of funding or even legal and structural forms of ownership. Such an array of factors will hamper, restrict and lead to considerable practical problems with obtaining, servicing, controlling and monitoring the debt levels. Shaw therefore needs to provide clear and supportable evidence that further devolution of strategic, operational and financing issues to the current NR route sectors would yield any advantages, cost savings or improve decision

making. In particular, Shaw needs to explain in substantially more detail how the devolution will impact on interface costs, safety standards, cost control and organisational and financial management.”

Shaw seems to have ignored this advice.

Where there is the potential for genuine rail devolution, on elements of the network which are almost entirely self-contained and where there is already established a significant level of political devolution with the capacity, both in funding and expertise, to manage a section of the network this should be limited to passenger train operations (not infrastructure) and RMT wish to reiterate that Network Rail’s functions should include acting as a “guiding mind” for such endeavours in rail operations.

Although we welcome the fact that for freight customers “safeguarding network-wide coherence; improved timetabling and system management” is a priority for the ORR, given the extent to which passenger services also operate across routes there is no discernible reason why such network-wide coherence, through an integrated national structure is not similarly prioritised for passenger services.

In summary, RMT is completely opposed to the fragmentation or devolution of rail infrastructure. It is essential that enhancements, maintenance and renewals continue to be guided by a single body, and that the workforce for each type of infrastructure work be returned in house. Although the document claims that “Network Rail’s ‘system operation’ functions to maintain the benefits of a national network” it is clear that the functions proposed are insufficient to maintain the real benefits of a national network.

Finally, RMT believes that the economic and safety regulator for the Network should not be advocating flexibility in funding in the context of uncertain political devolution.

Devolution & Industrial Relations

Network Rail currently directly employs 34,000 people covering a track of 16000 kilometres in length with the majority of the rail infrastructure workforce employed by private contractors on a myriad of contracts, employment statuses, multiple employers etc... An essential role for Network Rail to maintain an economy of scale is therefore to define and coordinate the human resources policy for the rail industry.

In this respect, at a minimum, a common human resources policy and a single set of procedures should be determined at system operator level.

RMT will continue to organise amongst transport workers regardless of structural changes. In our experience, whilst structural changes may present challenges, our union has consistently and successfully adapted to structural changes within the industry.

We repeat, however, that devolution and fragmentation will lead to a complex array of terms and conditions, “leapfrogging” and industrial relations problems.

It is worth revisiting that one significant contributory factor to British Rail’s high labour productivity was that the industry enjoyed a system of unified national bargaining which bought significant economies of scale, and a stable framework for industrial relations.

Privatisation shattered the national rail network's integrated collective bargaining and dispute resolution procedure. Where once the RMT negotiated with the British Rail Board, now RMT must engage with 24 train-operating companies, (TOCs), 7 freight companies, 3 rolling stock companies, 7 major renewal companies. Once the smaller, associated companies are accounted for, over 70 companies apply their rules in over 70 different ways according to the interpretations of over 70 different personnel directors.

A direct consequence of this fragmentation has been a worsening of industrial relations. According to a study by Aberdeen and Glasgow University railway industrial relations prior to privatisation were relatively harmonious with only eight strikes taking place between 1979 and 1996. By contrast there are now a number of serious pay disputes every year.⁵ Over a longer timeline we know that in the fifty years of national bargaining before privatisation there were only six national railway disputes.

A direct consequence of poor industrial relations is inefficiency and lower productivity caused by industrial action. Additionally, increased adversarial relationships will on a day to day basis make employees less productive if they feel they are being treated unfairly and suffering from poor morale.

Any proposed increase in the fragmentation of Network Rail will compound existing industrial relations difficulties.

Enhancements

In relation to enhancements the consultation document states "there has been a significant change of several billion pounds to planned enhancement work, some of which has now moved from control period 5 (CP5, 2014-2019). There are now around £9.5bn of enhancements planned for control period 6 (CP6, likely to be 2019 to 2024). When combined with planned asset sales – which would reduce future income streams (e.g. from property rents) over CP6 – and uncertainty about the performance and efficiency levels that Network Rail can achieve by the end of CP5, this may imply some tough choices".

RMT rejects the "tough choices" argument. The previous two periodic reviews have both claimed tough choices and have both led to a grossly ineffective and dogmatic pursuit of the austerity project.

Furthermore, RMT does not support any alternative funding models for enhancements, including private funding, and firmly believes that such approaches not only lead to lower achievement of desired outcomes but are also less cost effective.

Private sector capital introduction is not suitable for the railway industry as past experience of private sector interests in the rail infrastructure have shown through the long term damage done under RailTrack in addition to a succession of fatal rail crashes.

The Rebuilding Rail report highlights the myth of private investment by arguing genuine at-risk private investment in the railway in 2010-11 lay somewhere in the range £100 million – £380 million, with the figure most probably lying at the lower end of this range, that is, around £100 million. In the same year, *other* sources of income for the railway, public money and the fare box, contributed £10.6 billion.

⁵ RMT All Party Rail Group Briefing

Rebuilding Rail concludes private investment represents just 1% of all the money that is going into the railway and quotes the former Secretary of State for Transport Andrew Adonis to make the point,

“In so far as there has been private sector investment by TOCs, that investment has been funded, let’s be clear, by the state and by passengers, either through revenue support or through fares.”

It is also hard to find one example of private sector innovation that could not have been carried out by the public sector. Indeed the Government’s own 2011 McNulty report into the cost of UK railways and *Rebuilding Rail* agreed that fragmentation of the railway mitigates against industry innovation as companies seek to operate in their own short term interests.⁶

A good example of this short termism and self interest has been the privately owned Train Operating Companies opposing for some time the publicly owned Transport for London’s proposals to extend the oyster card (a card that allows through ticketing on rail, tube and bus journeys) from London Underground services to mainline rail services.⁷

RMT believes that Network Rail should directly manage the enhancements projects and funding must be made available to do so. Such an approach will allow for direct planning regarding the achievable levels of renewals work and delivering the enhancements.

Although the ORR claims to be “looking for options for greater flexibility in the approach to enhancements” the only systematic approach to producing both the necessary outcomes and achieving flexibility is for enhancements to be taken in-house and managed directly by Network Rail from a single pool of directly employed skilled railway workers. In this way the organisation can manage flexibility as opposed to advocating increasingly unsafe precarity in the contractor workforce.

The consultation document asks “it would need to be decided how different enhancement projects might be treated – for example: would all projects covered by the Hendy review be funded within PR18, with only new projects be funded outside PR18? And would the concept of ring-fenced funds be retained and funded within PR18?”

RMT argues that enhancement projects should be undertaken by Network Rail and funded through PR18, with all major projects having projected cost ring-fenced including those projects covered by the Hendy Review. RMT does not believe that any projects should be funded outside of PR18 as this can only reduce accountability regarding their delivery and reduce transparency as to cost.

Furthermore, the documents also asks: “What should the role of Network Rail’s routes in the enhancement planning process be, in light of the potential for them to have more responsibility for decision-making and our proposals for a shift towards route-level regulation?”

RMT believes that the enhancements planning process should be undertaken by Network Rail centrally, alongside the system operator function, to achieve economies of scale in terms of funding, expertise and skills base.

Network Rail’s functions should be expanded in order to ensure full oversight of both the infrastructure and operations of Britain’s railway. Independent reports (for example *Rebuilding Rail*

⁶ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/4203/realising-the-potential-of-gb-rail-summary.pdf

⁷ <http://evening-standard.vlex.co.uk/vid/angry-at-rail-firms-oyster-snob-62104464>

by Transport for Quality of Life) estimates that this could save at least £1bn a year. As a bare minimum Network Rail should retain control of its current functions and take renewals in-house and also assume responsibility for High Speed Rail.

Renewals

RMT remains concerned by the lack of priority given to renewals work. This is especially concerning given the impact of the feast or famine funding approach on the skills base which ultimately drives skilled rail workers out of the industry. This is underlined by ORR's own acknowledgement that "£2.5bn of CP5 renewals work is now planned to be delivered following CP5". As stated elsewhere, this funding must be additional to the basic CP6 funding and ring-fenced for this purpose.

Furthermore, the farcical situation where the failure to establish an integrated approach to workforce planning across maintenance, renewals and enhancements has led to gross inefficiencies, impacting on safety, due to the refusal to recognise the interdependence of the various strands of work. ORR highlights the fact that "changes to the enhancements pipeline might affect the timing of renewals activity and the funds available for maintenance activity" but proposes nothing to address this growing problem.

RMT believes the only viable solution is for the entire workforce, including renewals and enhancements, be taken back in-house.

The consultation document recognises that "given the cost pressures Network Rail has faced in CP5, these constraints have led Network Rail to defer renewals spend, defer and re-scope some enhancements projects and start an asset disposal programme" but fails to attribute responsibility for the cost pressures which RMT warned against in PR13.

Network Rail's funding

The lack of ambition regarding the network is underlined by the consultation document which states that "for example, in some areas, we may only be able to make limited progress during PR18 or by the end of CP6, with further progress to be made subsequently".

RMT argues that critical to the success of Network Rail and its ability to maintain safety standards, deliver enhancements, and to develop and retain a satisfactory skills base is the length of the funding cycle.

RMT believes that the current five year control periods are too short and should be extended in length to ensure that economies of scale can be reached within the organisation for the delivery of enhancements and to ensure that the wider long-term public good and the socio-economic importance of the rail industry is placed firmly in focus when ascertaining how taxpayers money will be spent.

One key weakness to enhancement planning is the lack of a long term strategy, which manifests itself in various ways including in the lack of a long term workforce strategy. It also leads to a "feast or famine" workload, which drives skills away from the industry.

The five year horizons currently used are also prescriptive and do not allow sufficient flexibility. Trying to force a quart into a pint pot is not the way to plan the railway. It would be beneficial if planning and related funding was held over far longer cycles.

Moreover there is overreliance on contractors to deliver enhancements and fragmentation and short termism has led to a shortage of skills and a loss of industry knowledge. Again it is worth quoting Professor Shaol:

Many highly skilled engineers who knew things about the railway network that no one else did lost their jobs; some hired that knowledge back to the industry as private consultants. Habits of information sharing and freely given advice were interrupted by the requirements of commercial confidentiality. Hard-won accumulations of local and specialised knowledge were lost in the shift to an increasingly casualised and individualized workforce.”

RMT supports the view of Dr John Stittle that “if the RAB methodology is abolished then Shaw should ensure there are structures in place to have levels of government debt agreed and guaranteed over lengthy planning and investment cycles. In any event there is a strong argument that funding should be planned over at least 15 year cycles (if not longer.) A substantial time frame is essential for major asset infrastructure planning and investment to be successfully implemented and will also deliver greater efficiency and flexibility”.

As railways are essential to the economic, social and environmental fabric of the UK all risk should be underwritten and managed by the state.

RMT believes that the efficiencies which would be gained from establishing a guiding mind for the rail industry (such as removing duplication of work), and preventing leakages from the industry, would at a minimum reduce the rate at which debt is accrued.

It has already been announced that “a greater proportion of industry funding in England & Wales will be channelled through franchised train operators (rather than directly to Network Rail)”; conventional government funding and borrowing is the most economic and efficient way of funding the railway.

The RMT would also support a levy on big businesses who benefit from railway services and expansion, including variations of a Land Value Tax.

In relation to both sources of income, private train operating companies hold the purse strings without contributing in any significant way to the contents of the purse and this creates obvious issues surrounding transparency, accountability and value for money.

RMT believes that any pressures on Network Rail from customers should be considered when determining long term strategic planning for Network Rail as discussed elsewhere. It would also be strengthened by ensuring that Network Rail is directly in receipt of passenger revenue.

If by customers we mean the TOCs and FOCs, RMT would be opposed to giving them any greater powers over Network Rail as we believe this will commercialise infrastructure and reduce safety and efficiency. In this respect we are opposed to redirecting government funding away from Network Rail and towards the TOCs.

RMT believes that the current structure and financing of the rail industry acts as a disincentive for innovation and for addressing long term challenges. This is due to short term, 5 year Control Periods coupled with a political cycle of similar length and the immediate and short sighted avarice of private sector interests.

RMT believe that delivery should be approached in a positive and innovative manner within a long term planning framework.

Whilst it is widely accepted that the rail industry will continue to be funded via the passenger and taxpayer, RMT believes that it is unacceptable that there is no direct link between passenger revenue and Network Rail's income, and is further concerned by the changes to the manner in which the Network Grant is allocated through being re-directed through the train operating companies.

The fiasco of the Network Grant, previously in lieu of track access charges, being channelled through TOCs to create the impression of their paying track access charges themselves is in no way positive or meaningful to stabilising railway finances. RMT believes that the only way track access charges might support industry-wide cost reduction is if they actually represent the whole cost of the network, and are actually paid for by the operators themselves.

RMT opposes the use of open-access operators, but wish to reiterate that where they do operate they should pay not only the full cost of their operation on the network in track access charges but also a premium for cherry-picking services.

Safety

RMT is disappointed that the ORR does "not anticipate significant stand-alone safety related projects to be delivered through the periodic review", especially where specific projects such as the removal of all level crossings are long overdue.

However, we welcome the commitment to "ensuring there is adequate spending on safety-critical maintenance and renewals" and believe that specific funding to deal with the backlog from CP5 must be allocated.

Benchmarking

The Shaw Report saw the latest consideration of benchmarking since McNulty and we argued that it was essential that it did not make the same mistakes and in particular in relation to the data used. These inaccuracies have led to a series of unfounded attacks on Network Rail, and the workforce, over a number of years.

For example, McNulty estimated average total allowance, plus bonus, plus overtime, plus rest day working and Sunday to be equal to 70% of basic salary. The lack of concrete data for these components of employment costs indicate that the total average pay calculated may have been inaccurate by up to 41%.

RMT notes ORR's acknowledgement of the failure of international benchmarking undertaken in the past, which despite being highlighted as grossly inaccurate by RMT was still used to drive an unnecessary and damaging cuts agenda in Network Rail.

RMT continues to believe that international benchmarking can be successful, if undertaken on a like-for-like basis with other national networks in the public sector.

However, we caution against comparison between the route businesses, as this will undoubtedly create a culture not of progressive rivalry but rather a race to the bottom reflecting the current political climate. Financial incentives at management level will exasperate this problem.

This is especially the case, in a time of ideologically driven austerity, when the ORR is advocating “the importance of routes submitting full and separate regulatory accounts”.

Whilst variation in realistic regulatory targets across routes is not in itself unwelcome, the prospect of the development of different organisational structures is. In this respect, RMT believes that any variation in regulatory targets by route should be determined by the ORR in conjunction with Network Rail centrally.

RMT’s concerns are not unfounded. In PR08 we saw monies allocated for level crossing spending in CP4 which was not spent (and the work not undertaken), which subsequently had to be ringfenced in CP5. RMT fears that internal benchmarking, and the subsequent race to the bottom across the organisation will see similar lapses, and with potentially very serious safety consequences.



Response to ORR's initial consultation on the 2018 periodic review of Network Rail (PR18)

RSSB

10 August 2016

Chapter 2: Context for the review

We invite stakeholders to comment on whether they agree with our view of the context for PR18 or whether they consider there are additional significant points. (If the latter, please explain how these might affect the review).

The broad context for the review is welcome and the opportunity this offers to ensure that the way in which Network Rail is regulated is fit for purpose for developing the network in a way which delivers a transformed customer experience for passengers and freight.

The context of growth is correct. However, it needs to be recognised that this is not uniform across the network; growth is occurring in particular locations and within particular markets. Regulation therefore needs to take into account these network differences and variations across routes. A 'one size fits all' approach to regulation is no longer appropriate.

The review needs to take a whole systems perspective and view the regulation of Network Rail within the context of its part in ensuring the reliability and availability of the network to deliver services to passengers and freight. The incentives and regulation of Network Rail need to be considered for their contribution to, impacts on and consequences for the reliability and availability of the railway as a whole.

The review also needs to take into account the opening up and extending of the network, in particular in light of the progressive move towards greater devolution of decision making for example Rail for the North, as well as the devolution of Network Rail itself. There is a growing desire to extend the connectivity that rail can bring to communities, connecting people with jobs, opportunity and family, supporting economic growth. The review needs to consider the extent to which it enables and supports such growth in the network, making it as simple, quick and efficient as possible to make such changes and to be responsive to local needs.

In addition, Chapter 2 references Technological change and High Speed 2 but makes no references to the industry Rail Technical Strategy (RTS) that was published in 2012 and sets out a vision and strategy for a transformed railway over a 30 year time horizon. The RTS provides a significant reference point for the industry and should be considered as part of this review. The regulatory incentives for innovation and the accelerated application of technology within the industry needs to be a key consideration in the way Network Rail is regulated going forward.

Nor is any reference made to the industry Sustainable Development principles. Again, these provide a key reference point for the review and thought should be given as to how ORR and its regulatory approach can help to further embed these within Network Rail.

Chapter 3: Focusing the review where it can have most impact for passengers and freight customers

We welcome views on the proposed relative priorities for the review, as well as any other areas that should be prioritised (in which case, we would particularly value views on what should not be prioritised as a consequence).

If the review is putting passengers first, then reliability of the service - trains turn up and arrive at their intermediate points and destination on time and availability; the capacity is provided for passengers to travel in comfort – is a high priority, along with value for money, as demonstrated through the National Rail Passenger Survey results.

When considering ‘more efficient’, consideration needs to be given to the tension between initial capital costs and whole life costs. The costs of the industry and their impacts on fares needs to be considered over the long term so that over time, the costs of the industry can be reduced and the savings passed on to customers, passengers and freight. The sustainability of the industry and its affordability over the long term are critical. The way in which Network Rail is regulated is a key contributor and should incentivise whole life costing.

In order to ensure regulation of Network Rail delivers the desired results, an agreed set of industry outcomes focused on customer priorities is needed to inform the right approaches and ensure the right incentives are put in place to achieve the desired outcomes.

In the section covering ‘A safer network’ reference should be made to the industry framework ‘Taking Safe Decisions’. Network Rail (and industry as a whole) takes a risk-based approach to safety management and that the guidance document *Taking Safe Decisions* sets out the GB rail industry’s consensus view on how companies take decisions that affect safety. It describes the principles they apply to protect people’s safety, satisfy the law, respect the interests of stakeholders and meet other business objectives.

Proposals for safety-related investment are to be aligned with delivering the objectives set out in the industry strategy *Leading Health and Safety on Britain’s Railway*. They are industry proposals but Network Rail would be responsible for delivering substantial elements of some. It’s positive that occupational health is referenced in 3.13. The industry is less mature in this area; similar benchmarking to that undertaken with regard to safety performance would be beneficial.

Greater visibility of Network Rail’s own performance in delivering overall system performance is needed to ensure that appropriate corrective actions can be taken by the right organisations.

Further thought should be given to the proposed aim for CP6 stated in 3.22. This doesn’t seem to fit with the statement in 3.13 regarding safety and safety-related

projects nor the proposed prioritisation. It is also not clear if this is the aim for Network Rail or context for these proposals. This needs clarifying.

Chapter 4: Our proposed approach to the review

We would like to know if you agree with the overall approach that we have set out for the review.

We would also welcome additional suggestions and proposals for how we might adapt our regulation to the current context. It would be helpful if you could arrange your comments around the headings in the chapter (set out below) where these are relevant to your response.

Route-level regulation

Route level regulation needs to take into account the variable geography, infrastructure, markets and local needs. A single set of quality of service measures is not appropriate given this variability. This is further emphasised when it comes to considering appropriate measures for Freight and Cross-Country services, which span multiple routes.

System operation

The system operation function needs to be properly defined before decisions as to how it is regulated can be made.

Having said that, transparency and visibility of decisions made by the system operator and how they are arrived at will be critical for the role of system operation. There will inevitably be trade-offs that have to be made; the evidence, criteria and thought processes that lie behind decisions need to be clear and be open to challenge by all.

Outputs and monitoring

Outputs need to be connected to whole system performance. They also need to encourage system thinking and incentivise innovation in approaches taken to improving the performance of the system.

Charges and incentives

There needs to be transparency of how charges have been set and for the charging regime to incentivise the rapid adoption of new approaches and solutions that can drive down cost and drive up system performance in its broadest sense.

Approaches for enhancements

Enhancements need to embrace new technology and new ways of doing things and be aligned to delivery of the Rail Technical Strategy. Early consideration of all

options/solutions, taking account of the above, should be embedded in Network Rail's processes.

ERTMS and related technology

The Rail Technical Strategy sets out the industry's vision and strategy for the technical transformation of the railway over the next 30 years. Network Rail has a key role to play in supporting delivery of this transformation and should be incentivised to adopt technical solutions that are in line with the development of system capability and that will deliver near term and long term benefits to customers.

Chapter 5: Developing the high-level framework for the review

We welcome views on how our high-level approach could be implemented and on the potential framework set out in chapter 5. As part of this, we invite thoughts on what is practicable to achieve in PR18 and in CP6, and what might be more realistic to achieve in the subsequent periodic review.¹

We would also welcome any further suggestions and ideas on how we might improve how we regulate Network Rail.

A response will be made to the separate working papers.

Chapter 6: Process and engagement

We would be grateful for comments on the proposed phases of the review, including any views on the draft timetable and our proposed approach to engagement.

We also invite high-level views on the process for customer engagement by Network Rail's routes and the system operator to inform their business plans, in terms of what is achievable for this review.

We would also welcome any views on how Network Rail and train operators would like to engage and be involved in the implementation process for PR18 and any thoughts on the process relating to Network Rail's right to object to our determination.

It is essential that there is absolute clarity as to who Network Rail's customers are to ensure appropriate focus is given to them and commensurate incentives are put in place. Network Rail needs to be able to demonstrate that it has engaged and actively sought and acted on the requirements of its direct customers, train operators.

¹ You may also wish to read and comment separately on the working papers that we will publish following this consultation document.



Clarity of responsibility between Network Rail's as yet defined system operator functions and the roles of other organisations, for example RSSB's role in establishing National Standards, will be an important outcome of the review.

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

10 August 2016

Response to the PR18 Initial Consultation

Thank you for the opportunity to respond to the initial consultation for the Periodic Review 2018. The review comes at a critical time for the railway, with significant challenges both within the sector and also from a changing context. This response is on behalf of the rail industry's Sustainable Development Steering Group (SDSG). SDSG provides governance and leadership on sustainable development for GB rail and is made up of representatives from across the sector. SDSG is responsible for the industry's sustainable development input to the CP6 planning process.

Rail is critical to a sustainable, integrated transport system. It is an effective, efficient and low carbon way for customers to access jobs and services, connect with people and transport goods. But sustainable development is also critical to an industry that operates long-life assets in a complex network delivering economic benefits and policy objectives for public sector funders.

In 2009 the industry published the Rail Sustainable Development Principles, which outline a vision of what sustainable development means for GB rail. These were relaunched in 2016 by the Rail Minister, with a commitment from DfT to embed them. Rail has made substantial progress in embedding the principles, but significant challenges and opportunities remain. In an industry with a unique structure and market, the regulator has a critical role to plan in supporting and enabling the industry to meet the challenges and realise the opportunities. To support this, our response makes four key points.

There needs to be a much better understanding of the changing context beyond rail

The view of the context given in the consultation is extremely narrow, focussed entirely on rail. Even within this it misses important changes in the context, such as the step change in sustainability now required of operators through franchising and the Rail Minister's recent commitment to the Rail Sustainable Development Principles.

More widely, there is no discussion of the significant political and economic context that impacts on rail, including:

- 1 - Brexit, and the potential impact on rail in terms of increased risks (both economic and currency) affecting the market and potentially reducing industry's incentives to make decision for the long term
- 2 - The Government commitment to re-balance the economy, and the significant impact that investment in rail can have, eg through projects such as the Northern Hub

- 3 - The recent publication of the Transport Infrastructure Skills Strategy, with a requirement on rail to deliver 20,000 new apprentices
- 4 - A significant rise the extreme weather events, with impacts on the rail network
- 5 – The 2015 Conservative Manifesto commitments to strengthen local communities and build new infrastructure in an environmentally sensitive way
- 6 - The Social Value Act, which requires all public bodies in England and Wales, to consider how the services they commission and procure might improve socioeconomic and environmental well-being, especially now that Network Rail has been re-classified
- 7 - The recent Bus Services Bill, which will transform local bus services and enable greater modal integration.

Beyond direct impacts, the context discussion also fails to mention the significant changes in the transport market more generally. Disruptive technology, enabled by far greater access to far better data, is already changing the way people travel with services such as UBER offering an immediate door- to-door service in urban centres and companies like Tesla making cars the low-carbon option. There are also longer-term trends to flexible working, and collaboration enable by technology.

These technologies, combined in the near future with the advent of autonomous driving could fundamentally challenge many areas of the rail market. This is especially so given that the Government has set out an ambition for this country to lead the way for autonomous vehicles, with the Modern Transport Bill, announced in the recent Queens Speech aiming to “ensure the UK is at forefront of technology for new forms of transport, including autonomous and electric vehicles”. Though this may seem like a future uncertainty, much of the technology is already in place now with Highways England committing to trials on UK motorways by the end of 2017.

Much of this in included in the concept of Mobility as a Service (MaaS), with recent research concluding that “travellers and other transport users increasingly view transport as a service which they want to buy when they need it”¹. The ORR will need to have a significant role in enabling the changes the rail industry must make if the concept of MaaS is going to encourage further sustainable development of railways and realise the potential benefits for rail customers.

These rapidly changing technological advances could have significant impacts on the results of investment decisions that are made in CP6. Without more in-depth consideration now of these technological and political changes, there is a significant risk that the PR18 process will miss out on the potentially significant risks and opportunities that they bring.

It is unclear how ORR is meeting its duties on sustainability

¹ Mobility as a Service, Transport Systems Catapult, 2016

ORR has clear statutory duties around sustainability and environment. These are to:

- contribute to the achievement of sustainable development;
- contribute to the development of an integrated system of transport of passengers and goods
- have regard to the effect on the environment of activities connected with the provision of railway services.

Yet sustainable development is barely mentioned in the initial consultation. In the very short section on sustainable development in the working paper on the outputs framework there is even a proposal to reduce focus in this area (Outputs Framework working paper section 4.19) and rely on whatever industry proposes in the IIA. How is this compatible with ORR's duty to contribute to the achievement of sustainable development? Should the ORR be relying on the IIA before it is even published?

While it is noted in the working paper that some indicators were set in CP5, there is no indication of what impact this has had and whether there is an argument for more or less focus stemming from this. Moreover section 4.15 of the Outputs Framework working paper is somewhat disingenuous, talking of an indicator for "carbon embedded in new infrastructure". In fact the indicator is the proportion of major projects using a methodology to measure and reduce the carbon embodied in new infrastructure. This is not a measure of carbon embedded in new infrastructure.

In fact in the area of embedded carbon Network Rail is starting to get some systems in place, but use of an embedded carbon calculator is still sparse and driven by individual projects, despite the HLOS requiring "measuring and reducing the carbon embedded in new infrastructure, throughout the lifecycle of programmes and projects". This is despite increasing evidence of the link between cost and embedded carbon and Network Rail being an original signatory to the Treasury's Infrastructure Carbon Review.

HLOS 2012 also requires evidence of how investment proposals are "taking into account the Government's broader environmental agenda throughout the lifecycle of programmes and projects". Is this requirement being met? Is Network Rail setting and meeting carbon and energy efficiency targets, based on robust data? This is another HLOS requirement.

There are areas of good practice within Network Rail, but overall the approach to sustainable development is not mature and there is a risk that Network Rail is falling behind both its peers and the rest of the rail sector. As examples, new franchise contracts specify a reduction in non-traction energy of 2.5% per annum, zero waste to landfill, ISO14001 and ISO50001, all of which put them ahead of current Network Rail performance. The Olympic Delivery Authority achieved zero waste to landfill across its whole programme. Anglian Water Group has targeted a 60% reduction in embodied carbon in new infrastructure and is saving 4-6% of its capital expenditure as a result.

Currently Network Rail is hampered by a lack of systems and data and by a project delivery focus that devalues operator impacts, whole life costs and community impacts. This can lead to increased costs

later on – an example being the lack of proper consideration of noise impact at the new Reading depot which has resulted in expensive retrofitted noise barriers following local complaints.

This points to a fundamental failure throughout the document in that there is no analysis or understanding shown of what progress is being made in CP5 and whether any particular approach is working or not. ORR seems to be abandoning the idea of any output in this area without understanding if its approach in CP5 has had any impact at all, let alone whether the requirements are being met. The suggestion that this would lead to double regulation (Outputs Framework working paper 4.14) is wrong. Legal compliance is generally a minimum requirement and there are in any case few regulations which require an improvement in performance.

As its statutory duties make clear, ORR has a key role to play in enabling a sustainable railway. An important way it can deliver this is through ensuring outputs and metrics are in place to give the agenda increased visibility, benchmark performance against peers and the rest of the industry and ensure Network Rail is delivering against funders' policy objectives.

The industry still struggles to take whole-system, long-term decisions

The Hendy review cut the industry's core innovation funding, which was working to reduce long-term costs. Rail land is being sold off and developed into housing, leading to complaints regarding railway noise. Operators are denied the opportunity to pay the marginal cost to upgrade renewals to low energy alternatives. These are a few examples of how rail still struggles to make whole-life, whole-system decisions, especially where the costs and benefits sit in different organisations. This will be fundamental to a sustainable future.

While moving to route based regulation and increasing the influence of operators has many positive implications, there is also a risk that it will further entrench short-term decisions that are driven by franchise lifecycles or 'competition' between routes. Route level indicators could easily end up driving short term behaviours so care needs to be taken to identify indicators that ensure whole life, whole system costs are central and that routes are contributing to wider policy goals, such as carbon reduction, environmentally sensitive infrastructure and local social impact (eg through procurement).

Franchise operators in England and Wales now have a standard dataset, which will be worth reviewing as will the indicators proposed in the IIA. But indicators should also be underpinned by a commitment to acknowledged standards in key areas – such as ISO140001 on environmental management, ISO50001 on energy management and ISO55001 on asset management. As noted above, the first two are now standard requirements for franchise operators, with some franchise operators now working on compliance with the third.

There is a lack of clarity of how rail provides value through policy impacts

While the document starts by including taxpayers as a client of the railway (p4), by the next page when considering what to measure taxpayers have been dropped. PR18 needs to have a clear definition of what rail delivers for taxpayers, as rail still gets substantial public funding. Importantly this needs to extend beyond cost, which seems to be the current 'unsaid' assumption in the document.

This is important given the potential differences between the needs of current passengers and customers, and those of policy and how such differences will be balanced. Relevant policy areas include:

- Transport should be accessible for everyone (DfT)
- We need a modern rail network to support economic growth and productivity (DfT)
- We're working to reduce emissions (DfT)
- To move to zero-waste economy (Defra)
- Make best use of the water available across the country (Defra)
- Strengthen local communities (2015 Manifesto)
- Build new infrastructure in an environmentally-sensitive way (2015 Manifesto)
- Cut emissions as cost-effectively as possible (2015 Manifesto)
- Transport and Infrastructure Skills Strategy (DfT)

Conclusion

With significant change in the industry and the context this is a challenging review and there is much to be supported in the proposals, including the increased focus on customers. However, to achieve real and lasting benefits rail needs greater focus on how it really provides value for all its funders now and in the future, in a fast changing transport sector. ORR, as the regulator, will play a critical role in enabling this. SDSG will continue to engage in the process and looks forward to working with you to achieve better outcomes for customers, industry, government and society.

Regards,

A handwritten signature in black ink that reads "Clive Burrows". The signature is written in a cursive, slightly stylized font.

Clive Burrows
Chair, Sustainable Development Steering Group



26 July 2016

Office of Rail and Road

Initial consultation on 2018 periodic review of Network Rail

Response by SEStran (South East Scotland Transport Partnership)

SEStran is the Statutory Regional Transport Partnership for the eight Councils in South East Scotland with the key function of planning and strengthening the delivery of the Regional Transport Strategy. The City of Edinburgh and the Firth of Forth estuary are located in midst of the Region but it stretches as far as the Firth of Tay in the north and to the border with England in the south. It has a population of around 1.6 million and could in size be compared with an English PTA.

Six different rail franchise operators serve a total of 63 stations in the SEStran area (up from 36 stations prior to 1984) which were used by nearly 43 million passengers in 2014/15, nearly a quarter of the Scottish total. Growth in rail use in the SEStran area since the end of the recession has been close to 6% p.a., higher than both the Scottish and UK averages.

Rail therefore plays a significant and increasing role in the transport mix in the region and the outcome of the 2018 periodic review as well as the forthcoming CP6 rail investment period is of great relevance to the region.

In respect of the specific issues raised in your initial consultation paper, SEStran would like to give the following response.

2. Context of the review

We would agree that the key events and trends over the recent years .. i.e. continuous growth in rail passenger and freight traffic, the drop in Network Rail performance and efficiency, the reclassification of Network Rail as a public sector organisation and the Shaw report / political and operational devolution of Network Rail .. will have a significant impact on rail investment in the future, in particular on how it will be delivered.

To the above, a further development could perhaps be added .. the impact on rail delivery and investment from the recent decision of the UK to leave the EU. To what extent will the UK still be bound by EU directives in respect of Rail? After all, it could be argued that the UK has in the past been one of the most diligent countries in adhering to the EU rail directives and regulations. Will the potentially greater scope of going back to an integrated railway (i.e. combining 'trains with track') be pursued by a future government? Without discussing the pros and cons of this issue, it may nevertheless have an impact on the scope for future investment.

3. Focusing the review where it can have most impact for passengers and freight customers

4. Our proposed approach to the review

5 Developing the high-level framework for the review

It is difficult not to agree with the suggested approach to the above three headings, taking into account the direct and indirect changes to the ‘environment’ affecting the rail industry as alluded to in Section 2 above.

It is of course the case that Scotland has already been devolved for some years in respect of most rail issues – so the changes to the approach to CP6 (for example in respect of separate outputs and monitoring for each route) will arguably have a lesser impact in Scotland than in England and Wales.

6. Process and engagement

We welcome the proposal for greater involvement of stakeholders (relative to PR13 – CP5 process) and particularly welcome the awareness of the “greater interest of stakeholders such as .. regional transport authorities” .. and in a Scottish context we would include ourselves in this category.

We note the probable timetable (May/early June 2017) for the Scottish Government to submit their input to the CP6 process through their HLOS (High Level Output Statement) and SoFA (Statement of Funds Available) and we also note your statement that “Transport Scotland plans to consult on all key outputs for CP6 for which the Scottish Ministers are responsible for specifying. This will include those relating to the capacity of the network in Scotland. The results from this will help to inform the Scottish Ministers’ HLOS.”

We take it as read that this consultation will include all relevant Regional Transport Partnerships (RTPs) and we will contact Transport Scotland to get clarification on this consultation process. We would however suggest that when ORR, probably in February 2017, issue your legal notice to the Scottish Government to provide their HLOS and SoFA, you should also specify that they should provide evidence that they have undertaken a full consultation exercise, including consultations with all relevant RTPs.

Beyond the publication of the HLOS and SoFA documents we would expect a degree of consultation on the subsequent submission of the Network Rail strategic business plan for the Scotland route, and we welcome your commitment on seeking stakeholders’ views on your review of the Strategic Business Plan. This consultation should also include the Strategic Regional Transport Partnerships in Scotland.



Conclusion SEStran welcomes the initial consultation document on the high-level approach to PR18 and CP6 and is in particular encouraged by the strong approach to consultation with all stakeholders.

Should you wish to discuss this submission in more detail, please contact either George Eckton, Partnership Director or Trond Haugen, Adviser.

Kind regards

A handwritten signature in black ink, appearing to read "G Eckton". The signature is fluid and cursive, written over a light blue horizontal line.

George Eckton
Partnership Director

Office of Rail Regulation

Name	Paul Copeland
Business Unit	Rail Automation
Department	Mobility
Telephone	
Fax	
Mobile	
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Your reference	
Our reference	
Date	1 August 2016

SIEMENS RAIL AUTOMATION RESPONSE TO ORR INITIAL CONSULTATION ON PR18

This letter represents Siemens Rail Automation's response to the ORR's initial consultation on the 2018 Periodic Review.

In general, we have no major comments to make on the general approach proposed for this periodic review as set out in the consultation paper. However, this initial consultation is taking place at a time of some uncertainty for the rail industry, and we would therefore wish to make a few general observations which we hope the ORR will be able to take account of as the periodic review process is developed.

Clearly, in the light of the recommendations from the Shaw review of Network Rail, one of the most significant changes to the process is the decision to regulate Network Rail at route level, which will result in the individual routes being set their own regulated targets and outputs, with the routes also having financial and operational autonomy. At the same time, of course, it is widely recognised that it will still be necessary to coordinate and prioritise plans at a network-wide level to ensure national consistency and deliverability, especially of major programmes such as the roll-out of ERTMS.

While we support the proposals set out in the Shaw report on Network Rail, we are concerned that the combined effect of giving the individual routes considerably more operational and financial autonomy, while also making the routes subject to their own regulatory regimes, could encourage the routes to behave in a far more autonomous and independent manner than the need to maintain a national network suggests. In developing its proposals for Control Period 6 and for the separate regulation of the individual routes, we would therefore like to understand how the ORR intends to develop and oversee the regulatory regime in a way which does indeed preserve the national network and the roll-out of network-wide investment programmes.

We recognise that, following the Bowe review, the approach to CP6 will be materially different to CP5 and that major projects and programmes will be dealt with outside the normal Control Period process. Again we are comfortable with this. Our primary observation, which I am sure the ORR is seized of, is that whatever settlement is finally reached for CP6 is realistic, deliverable and fundable. This may be self-evident but given the difficulties experienced with CP5, the supply chain clearly needs confidence that the planning process for CP6 has these objectives firmly in mind. We believe it is therefore important that the supply chain is involved in the planning process for CP6 from the earliest possible opportunity and to the fullest extent possible.

PAUL COPELAND
Managing Director - Siemens Rail Automation

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(By email only)

10^h August 2016

Dear Sir/Madam,

2018 Periodic Review of Network Rail (PR18) - Initial Consultation (May 2016)

Many thanks for the opportunity to respond to the recent consultation document on 2018 periodic review of Network Rail (PR18)- initial consultation May 2016.

Following the recent Hendy review on deliverability and affordability for enhancements and the Shaw report on future financing for the rail, the 2018 periodic review for the determination of Network Rail's outputs and funding for CP6 is going to be a challenging task particularly at a time of significant change for the railway, for Network Rail in particular. The reclassification of Network Rail in 2014 and increasing doubts about Network Rail's ability to deliver major enhancements has raised concerns over the whole industry cost and delays to some of these major projects that are most needed for parts of the Network such as the Midland Main Line amongst others. Nevertheless, this consultation will provide an opportunity for train operators and stakeholders to review its delivery and efficiency and improvements over the coming years.

We believe that the focus of PR18 should be on Operation, Maintenance and Renewal (OMR) activities undertaken by Network Rail and attempting to ensure these are delivered as efficiently as possible. We are seeking certainty of delivery, be it OMR or enhancements, which has not been the case so far in CP5. We wish to see a reliable and available network performing in line or better than expectations to deliver the anticipated growth and increased customer expectations.

This response represents views on behalf of Stagecoach Group and its subsidiary companies. Also, we are supportive of comments expressed in the RDG's response to the initial PR18 consultation document. Our responses to the specific questions on which we have views are set out below:

Context for the Review

Q1: Do stakeholders agree the main issues and opportunities that ORR considers set the context for the next periodic review or are there any other significant points? If so how might they affect the review?

We note the current efficiency performance for passenger operators has fallen and improvements are needed for Network Rail's financial performance and efficiency. It is vital that PR18 is designed to taking a flexible approach as changes to the structure of the industry are expected over the coming years, e.g. recommendations in the Shaw report. It also needs to be in a position where

changes to how the industry is financed both at a Network Rail and TOC level do not impact on the fundamental purpose and objectives set by the ORR.

It is imperative that whatever levels of spend are allocated to Network Rail for renewals and enhancements it is not jeopardised by further organisational change as this will impact on not only how Network Rail performs, but train operators and their customers will also be affected.

It is noted that Network Rail plans to raise further funding through the sale of assets to fund enhancements. This must take into account any subsequent impacts on future access charges to train operators and is not seen as a short term solution to funding concerns which will have longer term ramifications for the wider industry. We expect Network Rail to fully engage train operators in this particular area and demonstrate that its business plan is achievable.

Focus on the most impact for passenger and freight customers

Q1: What do stakeholders think of the proposed priorities?

There is a clear interaction between all the priorities shown and therefore a stronger focus on one may impact on the others in a negative way, so a careful approach is needed to how the priorities are taken forward. The strength is in the priorities being developed together to get the maximum benefit for the industry and customers. Focusing on managing the network as a whole is critical; the industry needs to be aware that management at a Network Rail route level may well impact on the performance and operational capability of another Network Rail route.

A better used network does depend on funding and delivery of enhancements and clear lessons need to be learnt from the debacle of CP5. Clear business cases, smart decision making and speedy delivery are critical if the industry is to cater for ongoing growth of passenger and freight services.

We understand that detailed impact assessments are required to inform the thinking on which changes to make and how quickly they might be implemented. It is noted that the ORR may only be able to make limited progress during PR18 with further progress after that. However, the industry will continue to change over the coming years; reform will continue, and the ORR should move quickly but with care to make as many improvements as possible within PR18.

ORR Proposed approach to the review

Q1: Do you agree with the overall approach? Comments are welcome around each of the aims and objective areas, route level regulation; system operation; outputs & monitoring; charges & incentives; approaches for enhancements; and ERTMS and related technology.

This is a reasonable start to the consultation process on the ORR approach.

With regards to route level regulation, the possible submission of Network Rail's route based business plans would certainly help transparency and be a useful tool for benchmarking. This would enable outputs to be set at route levels with inputs from TOCs. Route level business plans would need to ensure that they are not unduly influenced by one TOC over another within the route and not be detrimental to other Network Rail routes or TOCs.

The use of scorecards may well be a useful management tool for providing data and information, but there needs to be some enforcement capability behind them for when things are not being managed effectively. If we want to continue making improvements to achieve better use of the current network and progress on efficiency, the ORR needs to ensure that Network Rail route accountability is reinforced by holding Network Rail accountable for their actions.

With regard to System Operations, they need be accountable against a set of criteria and monitored carefully ensuring it delivers against its targets. TOCs may be able to help shape these inputs to show what is important to them and their customers.

Increasing transparency around costs is a positive step forward. Having more and better information on network costs will improve transparency about where costs are incurred, what activities cause them to be incurred and support better decision making process. Also, the PR18 should put in place initiatives to ensure a better understanding in the industry of what drives better performance.

In terms of access charges and the incentives around possessions and performance, incentives need to be as simple as possible. We acknowledge that the pre-determined formulae is derived to broadly cover circumstances surrounding most 'typical' possessions and it remains appropriate so we should continue with the current formulae subject to an update of other elements in the formula. However, we believe that the existing mechanism is not fit for purpose particularly in response to restrictions of use caused by 1) Network Rail cancelling major possessions at a very late stage in the timetable planning process or 2) major operational disruption e.g. the recent threat of industrial action by Network Rail staff in May & June 2015, which was cancelled subsequently. These are risks which are best managed by Network Rail, and they need to be incentivised to manage these risks. Train operators should not be penalised or put in jeopardy for doing the right thing for customers in such circumstances. There is likely to be a number of possible solutions to this incentive challenge and we would like the ORR to consider this inefficiency in the PR18 periodic review for Schedule 4.

On enhancements, lessons learnt from CP5 as political devolution increases and the pressure to provide more capacity for a growing industry becomes more intense. There is a need for better, more effective planning, much improved decision making and better financial controls if enhancements are to be delivered to match growth. It is not acceptable to train operators and our customers that Network Rail can take over 4 years to develop a line speed improvement scheme which then takes a year to deliver. Funding, planning and delivery of enhancements need to be much sharper if we are to meet the challenges of continued growth.

We welcome appropriate funding of enhancements from outside parties and not try to fit the development and delivery of larger schemes into a 5 year control period. Enhancements are long term and may straddle more than one control period. In most cases, they need to align major schemes with franchise timescales and commitments for rolling stock and depots, which should be treated differently.

Developing the high level framework for the review

Q1: Views on the potential framework? What could be achieved in PR18? What may be achieved in subsequent periodic review?

Working with all industry partners on the implementation of the framework is essential at a very early stage. The framework is useful for monitoring Network Rail's outputs both at a Systems Operations level and at route level. However, it is unclear how the accountability element is managed.

Certainly, there should be TOC engagement when developing route business plans. This will encourage increased transparency around costs and outputs and allow TOCs to ensure their customers' needs are reflected in route business plans.

There should be a strong challenge that all the elements in Table 5.1 should be progressed and that all parts of the industry should work together with some urgency to ensure that is achieved.

Q2: Ideas on how ORR may improve how they regulate NR?

It is not necessarily how Network Rail should be regulated, but also how they are held accountable and what enforcement is applied to ensure Network Rail delivers on their commitments.

Process and engagement

Q1: Are the phases and timeline of the review right?

Some cognisance should be given to the franchise renewal programme using the industry's Rail Franchising Schedule and whether Network Rail has the resources to manage the implementation of PR18 and any input into the franchise process between summer 2018 and March 2019.

Q2: High level views on customer engagement by NR routes and the system operator to inform business plans?

We are not certain if the Network Rail route teams are structured appropriately in a way to ensure engagement with TOCs on the development of their route business plans.

This might require some TOCs who operate in multiple routes to have additional resources to manage the interface with Network Rail's various route levels.

Q3: How would NR and train operators like to be engaged with the implementation process?

Whilst we anticipate that engagement will be developed constantly throughout the PR18 process, such engagement should be mindful of the limited availability of TOC resources. A comprehensive programme for the PR18 should take into consideration how the industry and wider stakeholders should be informed particularly of the development on each of the proposals and their associated consultations on the specific topics. It will be pertinent to have regular updates by the ORR on key high level milestones so that we are informed when key decisions are required.

We welcome the ORR's proposals for the PR18 and early engagements with the industry for this process. We look forward to working with the ORR and the rest of the industry to take this workstream forward.

Yours faithfully,



Graeme Hampshire
Business Development Director

Response to ORR's initial consultation on the 2018 periodic review of Network Rail (PR18)

This pro-forma is available to those that wish to use it to respond to our consultation. Other forms of response (e.g. letter format) are equally welcome.

Please send your response to pr18@orr.gsi.gov.uk by **10 August 2016**.

Full name	Bruce Kiloh
Job title	Head of Policy and Planning
Organisation	Strathclyde Partnership for Transport (SPT)
Email*	
Telephone number*	

*This information will not be published on our website.

Chapter 2: Context for the review

We invite stakeholders to comment on whether they agree with our view of the context for PR18 or whether they consider there are additional significant points. (If the latter, please explain how these might affect the review).

Please note SPT's response is draft and subject to approval by our Strategy and Programmes Committee on 9 September 2016.

As a preamble to comments on the specific issues raised in the consultation document, SPT would make the following general comments:

SPT welcomes the 'Alliance' between ScotRail and Network Rail in Scotland and the resultant more visible linkage of operational franchise issues and infrastructure projects. We believe this model can be built upon and strengthened by incorporating the wider transport network into an extended Alliance to achieve greater integration.

SPT welcomes the acknowledgement of the challenges facing Network Rail in terms of increasing costs, higher customer expectations, and the overall economic climate (specifically as regards its negative impact on freight movements). We also welcome the acknowledgement of the fundamental roles of the Scottish Government / Transport Scotland, Regional Transport Partnerships such as SPT, and Local Authorities.

We welcome references to the potential impacts of City Deals, and to issues regarding major projects (delays, cost over-runs etc) that should lead to greater scrutiny and planning at the outset of such developments. Managing expectations as regards the delivery of new infrastructure is also important; the balancing of reliability of service against route speed and end-to-end time aspirations as well as considering community objectives for improved services and/or potential new stations can be looked at as presenting specific and, in some instances, contradictory requirements of the network. This will require a continued strong focus on engagement with stakeholders.

Understanding and meeting customer (e.g. passengers and freight operators) needs is necessarily much less easy to predict. The value of time for each sector will vary, and the willingness to pay for access to services at certain times of the day and for certain journey purposes is also a consideration. This is most evident as regards the aspirations surrounding HS2 and the potential enhanced connectivity this will bring to areas served by the evolving network. However, there comes a danger that it will result in a service which meets the needs for a very specific market segment that does not match wider aspirations for an inclusive national rail network. As stated, this is particularly an issue when competing bids have now to be made for infrastructure funds across the industry.

SPT has responded to Network Rail's consultation on the Scotland Route Study 2016 and the subsequent industry advice to the Scottish Government on the choices available for the railway. SPT will continue to liaise with Transport Scotland and other stakeholders as we respond to consultations on the key outputs for Control Period 6 which Scottish Ministers are responsible for specifying. This will include those relating to the capacity and capability of the network in Scotland and we further acknowledge that the results from this will help to inform the Scottish Ministers' HLOS.

With regard to the specific questions posed in the consultation, SPT would make the following response:

The context for the consultation is self-evidently that of a growing and successful rail industry. However, we must also look at the public transport network in the round and the success of the rail network in growing passenger demand is in stark contrast to the situation on the bus network outside London where decline is evident.

Having said that, continued investment in the rail network is essential and it is concerning that Network Rail is faced with borrowing restrictions that will curtail investment, but it is plain to see there has been a distinct failure to invest comparable levels of taxpayers money in the UK bus market which is by far the largest public transport mode in the UK.

Investment in rail should not be at the expense of a second rate deal for the bus industry and its passengers who, for many of them, their local bus service is a lifeline. While it is obviously outwith the remit of the ORR to tackle this disparity there are opportunities to strengthen partnership working across the public transport and active travel sector which will go some way to developing a more joined up and informed approach to investment decision making.

In terms of the specifics of the consultation, this brings with it issues of capacity, passenger expectation, the need for infrastructure renewals, inevitable disruptions and associated high (and in many cases rising) costs. Past challenges to deliver improvements "on-time and on-budget" makes the programming of infrastructure improvements and operational service critical. As such the delivery of rolling stock and the inclusion of driver training must form part of the delivery programme for major infrastructure projects. Similarly network capacity issues as regards changes for additional services and/or longer trains and platforms will have to be resolved long before major infrastructure and/or fleet procurement decisions are made.

It is also stated within the chapter that "the deep alliance between Network Rail's Scotland route and the ScotRail franchise aims to deliver better outcomes for passengers, and raises the question of how the regulatory framework can best support this." It could be suggested that the Regulatory Framework could be a fluid process and could be used to underpin both the existing operational network as well as factoring in any issues arising from infrastructure developments as they proceed.

The impact of HS2 will be fundamental to Periodic Review 18; however there remains a danger

that this will mean even given greater competition for funding due to the reclassified status of Network Rail as a public sector organisation. The binding borrowing limit (which has yet to be defined in Scotland) could result in significant reductions in rail investment outwith HS2 and it is worrying that a process could be developing where the outcome is a two tier railway system with non-HS2 'classic' rail the poor relation. Financial constraints could result in deferment of projects from one Control Period to the next, and whilst this increases uncertainty within the rail industry, it could ultimately have the consequence of tightening of financial controls within NR and within the rail industry as a whole. This discipline could also have a fundamental impact on sub-contractors and other industry consultancy providers but could ultimately drive down costs when developing both the operational and the future network.

Chapter 3: Focusing the review where it can have most impact for passengers and freight customers

We welcome views on the proposed relative priorities for the review, as well as any other areas that should be prioritised (in which case, we would particularly value views on what should not be prioritised as a consequence).

The top priority, as always, must be safety. Beyond that, greater clarity is required regarding decision-making processes and project initiation, costing and delivery mechanisms. While the new 'Alliance' initiative in Scotland is making in-roads as regards both of these, there is a need to establish a deeper Alliance involving Regional Transport Partnerships to reflect the need for more joined up decision-making that considers the wider public transport network.

In terms of the relative priorities, SPT welcomes sensible monitoring arrangements for the rail network but would be concerned if the desire to "regulate at route-level" results in an artificial and wasteful exercise in internal competition with the rail network of the kind that has proved an ineffective model in other public sector areas. Such an approach should be resisted as it will simply result in a "race to the bottom" as individual routes are pitted against each other with potentially damaging consequences for safety and investment. The further roll-out of performance rewards and penalties, performance related pay, to some extent the creation of an internal market within the rail network, is a disappointing and potentially worrying trend.

In terms of the aspiration to secure "a more flexible approach" to investment in the network, again we would be concerned if this was to place undue reliance on private sector investment rather than a sustained and consistent approach to central / local government funding. The tone of the consultation would seem to suggest that more and more of Network Rail's programme will be delivered by the private sector and this would suggest past lessons have not been learned e.g. when Network Rail's maintenance programme was required to be brought in-house to rectify the poor performance of private maintenance contracts. This typifies the current rail industry structure where profits are for the private sector, but where the burden of significant infrastructure investment remains one for the taxpayer.

We would suggest that "Improved Accessibility" should be a high level outcome for Network Rail as should "Affordability" both in terms of the rail fares but also in terms of controlling spiralling industry costs. "Improved Integration" with the wider transport and active travel network should be a key output for Network Rail particularly given the welcome commitments within this consultation to enhanced partnership working including with Regional Transport Partnerships. Last but not least, a commitment to environmental sustainability should also be a

key output for Network Rail, reflecting the ambitions set out by the UK and Scottish Governments.

Chapter 4: Our proposed approach to the review

We would like to know if you agree with the overall approach that we have set out for the review.

We would also welcome additional suggestions and proposals for how we might adapt our regulation to the current context. It would be helpful if you could arrange your comments around the headings in the chapter (set out below) where these are relevant to your response.

SPT support the objectives identified. In terms of route performance, it is important that the whole network, as well as individual parts of it, operates in a cohesive and transparent manner. We would acknowledge that there might be times when the relative importance of service types might be seen as competing with other elements of rail operation – specifically longer distance express services, suburban services, freight services and rural services. Similarly the penalties regime needs to allow for differences in each sector’s operational model as no “one size fits all” approach could cover the potential issues across all the operational types.

Input from as many stakeholders will be vital and, to that end, Regional Transport Partnerships, Local Authorities, Consumer Groups (specifically in this instance a body such as Transport Focus) and more local user groups can assist in the monitoring and development of services. The role of the Scottish Government and Transport Scotland in co-ordinating such input will be a priority.

The industry as a whole perhaps needs to make it clearer to scheme promoters that the rail network is a complex and hugely interlinked entity where one, perhaps, seemingly small intervention can have considerable implications for the operational and financial viability of wider service provision. Early contact with scheme promoters should be a priority in order to ensure that the financial and operational implications of potential schemes are fully understood prior to their being initiated.

Chapter 5: Developing the high-level framework for the review

We welcome views on how our high-level approach could be implemented and on the potential framework set out in chapter 5. As part of this, we invite thoughts on what it is practicable to

achieve in PR18 and in CP6, and what might be more realistic to achieve in the subsequent periodic review.¹

We would also welcome any further suggestions and ideas on how we might improve how we regulate Network Rail.

While there are arguments which emphasise the importance of retaining Network Rail as a single corporate entity, it is vital that it continues to evolve to reflect the UK's devolved landscape, and the growing importance of city regions (see also our response to Chapter 6 and closing comments). The consultation paper notes this trend and this is welcome, but we would strongly suggest this should result in a structure within Network Rail which reflects the realities of devolution.

Obviously, monitoring of performance across the network will need to be selective insofar as it would require to treat similar routes (regardless of location) in a similar fashion. Comparative performance should take into account operational factors by route type rather than by geography, population or any specific operational requirement.

Chapter 6: Process and engagement

We would be grateful for comments on the proposed phases of the review, including any views on the [draft timetable](#) and our proposed approach to engagement.

We also invite high-level views on the process for customer engagement by Network Rail's routes and the system operator to inform their business plans, in terms of what is achievable for this review.

We would also welcome any views on how Network Rail and train operators would like to engage and be involved in the implementation process for PR18 and any thoughts on the process relating to Network Rail's right to object to our determination.

Much of this consultation is, necessarily, technical and there is a presumption within the document that respondents have an element of industry knowledge as well as an understanding of the "jargon" used. The need for consultations, such as this, to engage with as wide a section of the travelling public as possible might require that a less technical and more summarised consultation process be initiated to ensure the widest possible input.

The views of the travelling public are obviously paramount but also critically important is the need to engage with wider public transport and active travel stakeholders.

It is SPT's view that there should continue to be an evolving and stronger relationship between the two, but one where the importance of a strong regional input to decision-making is recognised and formalised. The move towards enhanced city region governance across the UK, including in the west of Scotland, emphasises the importance of city regions as engines of growth. Ensuring that the needs of city regions are reflected in operational and infrastructure

¹ You may also wish to read and comment separately on the working papers that we will publish following this consultation document.

investment is crucial as is the need to ensure a programme that integrates with the wider regional transport network.

SPT would be happy to participate in the proposed Industry Working Group as mooted in chapter 6 of this Review and aimed at advising on the drafting of future rail policy.

Any other points that you would like to make

SPT is the Regional Transport Partnership and public transport authority for the west of Scotland with responsibilities including the Regional Transport Strategy, operation of the Subway and major bus stations, promoting and delivering projects, supporting socially necessary bus services, and promoting active travel. We work with our councils, Transport Scotland, public transport operators, the rail industry and, of course, the travelling public to improve the region's transport network.

SPT works closely with Network Rail, Transport Scotland and ScotRail on a number of projects including most recently, the evolving plans for the refurbishment of Queen Street Station, the construction of a new railway station at Robroyston in the north of Glasgow and the ambitions of our councils for other new railway stations.

The combination of activities and responsibilities places SPT at the heart of decision-making about transport in the west of Scotland and puts us in an ideal position to advise on the region's transport needs. SPT chairs the West of Scotland Rail Forum which brings together the key players in the rail industry and provides an opportunity for discussion, consultation and close partnership working which reflects not only the needs of the rail network in the west of Scotland but places them in a wider transport perspective. We also chair the Strathclyde Freight Quality Partnership with freight colleagues, including rail partners. With critical investment decisions on the horizon for rail, and with the advent of the Glasgow City Region City Deal, and emerging Ayrshire Growth Deal, it is more important than ever that our already established close partnership working is further strengthened. The development of the deep Alliance between Network Rail and ScotRail has brought real benefits in terms of effective project planning and delivery. The scope to extend this Alliance to include Regional Transport Partnerships should be considered to help promote the more integrated transport network that we would all wish to see and which the travelling public expect and demand. Such an approach has the potential to contribute to better outcomes for passengers, freight customers and taxpayers and to meet the ORR's ambition to "facilitate greater political devolution of transport decision-making"

Notwithstanding the above, a fundamental issue remains the protracted and convoluted processes geared to deliver profits for franchisees, while the taxpayer is required to foot the bill for infrastructure costs. The current constraints on Network Rail mean it is forced to find ever greater efficiencies while its scope for future investment is limited. This review suggests giving private rail operators a greater say over how the rail industry is run but there is no suggestion that they should be subject to greater public scrutiny and accountability – this is an issue which should be corrected.

Under current arrangements it would be welcome to see greater opportunities for regional not-for-profit rail franchises operated on a cooperative basis as is the proposal in Wales, and the proposal to have the ScotRail franchise run by a public body in Scotland as has been mooted in Scotland. This approach would bring greater transparency and accountability over rail services

and potentially enable better integration with regional transport and economic policy. Again the revenue from such a model could be retained within the industry.

Thank you for taking the time to respond.

Response to ORR’s initial consultation on the 2018 periodic review of Network Rail (PR18)

This pro-forma is available to those that wish to use it to respond to our consultation. Other forms of response (e.g. letter format) are equally welcome.

Please send your response to pr18@orr.gsi.gov.uk by **10 August 2016**.

Full name	Mike Hewitson
Job title	Head of Policy
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*This information will not be published on our website.

Chapter 2: Context for the review

We invite stakeholders to comment on whether they agree with our view of the context for PR18 or whether they consider there are additional significant points. (If the latter, please explain how these might affect the review).

We agree with the broad thrust set out in the consultation document re the:

- impact of overall growth in demand on performance
- reclassification of Network Rail
- devolution
- potential changes to the industry structure (following the high-profile reports from Hendy, Bowe and Shaw)
- technological change (HS2 and ERTMS/Digital railway)

These will all have an impact on PR18 decisions.

We believe, however, that there is more scope to reflect the scale of existing investment programmes and the impact of these on operations. We welcome the investment that Government(s) have been putting into rail and it will ultimately lead to improved levels of service and satisfaction for passengers. But it is equally clear that such work comes at a cost.

London Bridge is a case in point – the work will lead to a better railway but while it continues it has undoubtedly reduced the capacity and resilience of the network. Work to electrify the Great Western Main Line, lengthen platforms at Waterloo and to deliver the ‘Northern Hub’ has created similar issues. So, in terms of overall context, one of the key issues for PR18 to address is the interplay between improving the network at the same time as rebuilding it – a problem magnified as passenger journeys continue to grow.

Such an argument may appear to be more about communication than regulation and outputs. However, we have seen at London Bridge how ‘public perception’ does have an impact at an operational as well as a political level.

The other contextual point we would make concerns the consumer landscape. There has been a growing awareness of consumer rights. For example: in general consumer law such as the

Consumer Protection Regulation and the Consumer Rights Act; in petitions potentially leading to debates in the House of Commons; and an ever increasing desire for transparency and accountability.

We believe that this changing environment does have an impact on rail: what the railway does is increasingly being viewed through this consumer prism. So we believe that passengers' changing relationship with, and trust in, the railway will be an important part of the context surrounding PR18. It will help shape the environment in which PR18 is being delivered and, through this, how its success or failure will be judged.

We will explore below ways in which we believe more consumer engagement can be built into the railway planning process.

Chapter 3: Focusing the review where it can have most impact for passengers and freight customers

We welcome views on the proposed relative priorities for the review, as well as any other areas that should be prioritised (in which case, we would particularly value views on what should not be prioritised as a consequence).

For some time now we have pushed the concept of putting passengers at the heart of the rail industry. We acknowledge, of course, the role of freight but as this is outside our remit we will just focus on passenger services. The railway exists to serve its customers so we feel it is right that it structures itself in a way that best delivers these services to its customers.

Incentives and targets are used to influence behaviour - which makes it all the more important that the correct targets/incentives are chosen in the first place. From our perspective this means focussing incentives on delivering the type of railway that passengers want.

In 2014 we carried out stated preference research that asked passengers to rank a series of station- and train-based criteria in order of their priority for improvement. The table below shows the top ten priorities nationally. It also shows the relative importance of each attribute - the higher the score, the greater priority passengers assign to that service aspect. [NB. The data can be cut in many different ways – see: <http://www.transportfocus.org.uk/research-publications/publications/rail-passengers-priorities-simulator-2014/> for details].

National (top 10 – in order of priority)	Rank	Index Score
Price of train tickets offers better value for money	1	494
Passengers always able to get a seat on the train	2	367
Trains sufficiently frequent at the times I wish to travel	3	264
More trains arrive on time than happens now	4	178
Train company keeps passengers informed about delays	5	163
Less frequent major unplanned disruptions to your journey	6	161
Fewer trains cancelled than happens now	7	136
Accurate and timely information available at stations	8	132
Journey time is reduced	9	105

Free Wi-Fi available on the train	10	97
Sample size 3559		

The priorities are shown as an index averaged on 100. In this case 100 would be the average score should all criteria be ranked equally

The results emphasise the importance of what might be termed the ‘core product’ - an affordable, dependable service on which you can get a seat. From the index scores in particular we can see that value for money is not only the top priority for improvement but is nearly five times as important as the average priority. While clearly linked with the price of tickets we also know from previous research that this is also influenced heavily by train punctuality and the ability to get a seat. Getting a seat and frequency of service are in the second ‘block’ of priorities; with delays and disruption featuring strongly in the third main block of priorities.

Transport Focus also conducts the National Rail Passenger Survey (NRPS). We consult over 50,000 passengers a year to produce a network-wide picture of passengers’ satisfaction with rail travel. Multivariate analysis reveals that punctuality is the single biggest driver of overall satisfaction while the biggest driver of dissatisfaction is the way that the industry manages delays. In very simplistic terms, this means that the best way to improve overall passenger satisfaction is to get the trains to run on time.

These passenger priorities can be mapped against the high-level outcomes for Network Rail set out in Figure 3.1:

- More efficient
- Better Used
- Safer
- Available
- Reliable

There is a good degree of read across. Passengers’ desire for improved performance and frequency matches the ‘Better Used’ output; the desire for more seats/capacity fits ‘Expanded Effectively’; improving the way that delays (both planned and unplanned) are managed fits with ‘Available’ and ‘Reliable’; and there has always been an implicit priority given by passengers to ‘Safer’.

This is welcome. The more that Network Rail’s outcomes match passengers’ aspirations the more likely that they will generate the type of railway that passengers value and want.

However, alongside the ‘what will be delivered’ we think there is scope to build upon the ‘how it will be done’. For instance, and as mentioned earlier, passengers want more capacity/frequency but they want this to be delivered in a way that minimises disruption and unreliability. The most efficient, cost-effective way of carrying out major work may be to shut the railway for a month but this may not match aspirations in terms of availability – people can’t put jobs on hold for that period of time.

So while it is important to engage with passengers in terms of what outputs they desire it is also right to look at how they want to be engaged with and consulted on the actual delivery. This is something that we raised as part of the ‘Bowe’ review. We were pleased that she agreed and concluded that user engagement was of fundamental importance. While acknowledging that passengers views are picked up in the HLOS process she went on to say:

“...there is less evidence that passenger and user views are fed into the planning of how enhancements should be delivered, as distinct from what those enhancements should be. In most cases, the delivery of enhancements involves disruption to existing services, either

via short term possessions of the network, longer term closures and diversions or, as at London Bridge during the Thameslink works, extensive modifications to service patterns”

“The failure to engage effectively with users in this planning of delivery has had 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.”

Needless to say we agree. We think this creates a very powerful argument for why passengers need to be seen as a customer of Network Rail and why PR18 needs to build in such mechanisms from the outset.

To this end we welcome the reference to giving stakeholders a greater role (paragraph 3.24) but we think that there is merit in going further and making engagement an explicit high level outcome - e.g. in Network Rail finding ways to seek passengers’ views and in using these when making decisions. Making engagement an outcome will help to drive behaviours.

There are those who would argue that train companies are the actual customers of Network Rail and that they act as a proxy for passengers. There is clearly some synergy - both parties want a punctual railway and for engineering work to be minimised for instance - but we think it is wrong to argue that a TOC can be a complete proxy for the passenger voice. A TOC’s view of its own commercial interest may conflict with the best outcomes for passengers – for example it may be easier for a TOC to provide a rail replacement bus during engineering work while our research shows a clear preference for the more complicated, and possibly more expensive, use of a diversionary route¹.

We believe that there is no substitute for involving those who actually use services in the planning of those services. This view is strengthened by the fact that passengers are funding an ever increasing proportion of the railway - some 65% of the railways annual income is now via the fare box. This begs the question of why the main funder of the railway has no formal relationship with the infrastructure provider. Making engagement an outcome creates a mechanism to address this.

Chapter 4: Our proposed approach to the review

We would like to know if you agree with the overall approach that we have set out for the review.

We would also welcome additional suggestions and proposals for how we might adapt our regulation to the current context. It would be helpful if you could arrange your comments around the headings in the chapter (set out below) where these are relevant to your response.

Route-level regulation

We are conscious that ORR has also invited comments on a working paper exploring this issue in more depth. We will be responding to this separately so will only provide brief comments here.

¹ Rail passengers’ experiences and priorities during engineering works. Transport Focus. 2012

We agree that route-level regulation could bring improvements for end users. It could help generate a greater focus on local needs and priorities, it could provide useful benchmarking data, and it could open up scrutiny by producing more information at a route rather than a national level.

However, to be effective it will be essential that passenger engagement is built in from the start. The best way of focussing on local needs and aspirations is by asking the people using services what they think of the current situation and what they would like to see improved. Ideally this would also involve asking people who do not use rail why this is so. This doesn't have a be 'wish list' – our current work on priorities for improvement uses stated preference techniques to identify the relative importance of individual improvements (i.e. by how much more important is one item over another). Through this investment priorities can be developed.

Having provided a sense of priorities it is hard to see a direct role for passengers in then choosing the exact projects that get selected as part of the control period process. Passenger engagement is best at determining the priorities that the 'experts' then work on. For example, having chosen punctuality as a key requirement it is then hard to ask passengers whether they want scheme A or scheme B.

But once these individual schemes have been chosen there is scope for the route to engage on delivery. For example, each major project ought to include 'passenger plans' for:

- Consultation on delivery. With some schemes there is something tangible for passenger to engage with – stations being the obvious example - while some are much harder (e.g. electrification). Where there is scope for direct engagement the process should encourage/allow it and set out who will be responsible for doing it.
- Disruption. The extent of disruption to services, the consideration of alternatives and how passengers will be informed. The reference point for this is our research on disruption at Reading/Bath in 2010 and 2015² which showed that higher awareness of disruption leads to greater acceptance of the alternatives.

The routes will also need to ensure that there is a good feedback mechanism for passengers/stakeholders. Once again we would caution against any assumption that the TOC can be a proxy for the passenger interest. This would involve:

- Accountability: publishing clear statements on what will be delivered and when and what the targets are. This will give something against which performance can be judged
- Transparency: providing access to information so that people can judge delivery. The route scorecards are a step towards this but we believe that there will be a need to 'translate' some of this information into a passenger-friendly format.

One of the benefits of route-based regulation is that routes can focus on the things that matter most in that area. However, there will need to be some compatibility to ensure that fair comparisons can be made. The same would also apply to passenger engagement. There is value in ensuring that regional engagement fits a national structure which then enables views to be collated into a national picture. This can then be used to inform the High Level Output

² Planned Rail Engineering work – the passenger perspective. Transport Focus. December 2015

(HLOS) and the Statement of Funds Available (SoFA) statements.

Making each Network Rail route a more autonomous body means considerably more stakeholder activity and engagement. This creates a real challenge in terms of resources for stakeholder bodies like ourselves. It will be important that any proposals for decentralisation acknowledge that there are costs outside the immediate industry. We are currently working on proposals to boost passenger engagement in this area.

System operation

As above, we are intending to provide additional comments on ORR's working paper.

While passengers can see the benefit of local decision making they still have a sense of rail being part of a national network³. People will still want to travel across route boundaries – they do not want these to become more difficult/less joined up as a result of decentralisation. So system operation will need to ensure that timetabling and track access still facilitate the longer journey.

Equally, proposals will need to establish a mechanism for dealing with 'strategic vs local' issues. In an ideal world there would be sufficient capacity for local and strategic aspirations to be met but with demand already being high - and forecast to continue growing – there will inevitably be clashes. It will be important that decisions on decentralisation clearly specify a mechanism for dealing with disputes. Where you have, for instance, longer-distance and local services sharing a line there must be absolute clarity on who makes the decisions and who is responsible/accountable.

Similarly there are also times when a global overview or strategy is required. For example, when planning engineering work to ensure that all key routes are not closed at the same time or when planning for significant events such as the 2012 Olympics.

Another example of particular interest to passengers is the provision of information. Our research on delays and disruption⁴ found too many instances of passengers receiving inaccurate or conflicting information. Passengers wanted consistent information irrespective of where they got it and were baffled that staff do not all have the same information. Good industry-wide systems are essential to create a joined-up railway.

It will also be important that cross-industry systems are consistent with the drive towards greater transparency. Joint research with ORR showed that passengers want information (on performance and punctuality in particular) to be in the public domain⁵. Such information is important in generating accountability - the more access that passengers have the more they can hold the operator to account for the service it provides. Key to this is the requirement to release information disaggregated by line of route – the use of company-wide averages masks performance in individual areas.

³ Passenger views of Northern and TransPennine rail franchises. Transport Focus. December 2012

⁴ Delays and Disruption: Rail passengers have their say. December 2010. Passenger Focus

⁵ Putting rail information in the public domain. May 2011. Passenger Focus

Outputs & monitoring

Again we are intending to provide more detailed comments as part of ORR's working paper.

Having set out the need for engagement with passengers as part of a route-based strategy for PR18 it stands to reason that we would want to see outputs and monitoring also being passenger-focused. For us the crucial elements are that the targets reflect passenger priorities and that the measures reflect passenger experiences. To this end we are pleased to see the working paper refer to "improving the measurement of performance delivered to passengers".

We have argued previously that metrics and monitoring systems need to make sense to passengers and drive behaviours that passengers want to see. They also need to reflect the experiences of passengers. For instance, in 2010 we looked at passengers' experience of delay and how that corresponded to official PPM figures. The work explored in detail the correlation between passenger satisfaction with punctuality as measured by the NRPS for a three- to four-year period and actual train performance recorded by the train company over the same period. An initial study was conducted on London commuter services with (the then) National Express East Anglia, with three further studies in subsequent years carried out on Northern Rail regional commuter services (into and from Manchester) and on longer-distance journeys with CrossCountry and East Coast. Just recently (in partnership with ORR) we've also refreshed the work for Greater Anglia.

The research found that passengers notice/experience delays before the official PPM threshold for delays. On average, passenger satisfaction with punctuality reduces by between two and three percentage points with every minute of delay. This does not match passengers' own experiences: for instance they might be late arriving at an intermediate station but the train be classed as on time when it arrives at its final destination; or they do not consider a train that is just within its 5- or 10-minute delay threshold as being punctual.

The closer the railway is managed to right-time rather than PPM the closer it will reflect passengers' perceptions. It also shows that there is a value in focussing on reducing small sub-threshold delays – for instance, reducing lateness on a train from 4 minutes to 2 minutes may not have an impact on PPM scores but it will on satisfaction (i.e. there is a payback/dividend from doing so). In short, passenger-centric targets can generate passenger-centric behaviours

We are pleased that the industry is looking at new measures of performance.

ORR will also be aware that we are advocates of measuring service quality. This was at the core of our submission to the Brown review of franchising. We believe that it is not just a case of 'what' the railway does but of 'how' it does it. Our strong preference is to base this qualitative measure on what passengers say - the best judge of quality being those who have used the services in question. These are now a feature of franchise agreements but there is scope for more alignment with Network Rail.

We also have a growing body of research on managing delays and disruption. Managing delays is the main driver of passenger satisfaction and the provision of good information is the best way of minimising frustrations arising from delays. Hence, targets that incentivise more communication and engagement around engineering work will potentially lead to happier (or at

the least less dissatisfied) passengers.

And finally, making these metrics easily available to passengers generates greater transparency which in turn helps to breed accountability. Joint research⁶ with ORR established that passengers want more information in the public domain. Even when they admit that they will be unlikely to read it themselves they see the value in it being available as it helps keep the operator on its toes. The more the information can be broken down to individual journey – i.e. the ‘my journey’ concept the more engaged passengers will be.

Charges & incentives

We responded to ORR’s previous consultation on the Schedule 4 and Schedule 8 regimes. We felt that they should move beyond an assessment of their impact on train companies and also include an assessment of their impact on passengers.

In this response we asked whether schedule 4 incentivises the right behaviours. For example, does it incentivise the industry to divert services via alternative routes rather than start from the potentially ‘easier’ option of putting on buses? Are ‘all lines’ closures agreed only after consideration of the full range of options? Does it encourage compliance with T-12 requirements – i.e. putting accurate information into the public domain 12 weeks in advance? People need to know what the railway is doing so they can book theatre/concert/sporting tickets, organise family and other events or even to decide whether to travel or not. If changes are made after T-12, it means some passengers will have made decisions on the basis of what they believe to be accurate information – only to be caught out.

We also addressed Schedule 8 performance incentives. Punctuality underpins passengers’ perception of the railways so the incentive must be one that aims to reduce the volume and impact of delays. Clearly there must be incentives on a TOC and Network Rail to reduce their respective share of delays. However, this must not be at the expense of the overall delay to passengers.

For the sake of completeness we will also mention again our previous conclusions on the importance of passenger-centric measures – the aim being to focus on outcomes for passengers. In performance terms this means a greater focus on right time performance.

Approaches for enhancements

We have touched on enhancements, and the scope for more passenger engagement, as part of our comments on Chapter 3.

⁶ Putting rail information in the public domain. Transport Focus and ORR. May 2011

Chapter 5: Developing the high-level framework for the review

We welcome views on how our high-level approach could be implemented and on the potential framework set out in chapter 5.

As part of this, we invite thoughts on what it is practicable to achieve in PR18 and in CP6, and what might be more realistic to achieve in the subsequent periodic review.⁷

We would also welcome any further suggestions and ideas on how we might improve how we regulate Network Rail.

Our main point here is to reiterate the importance of making passenger engagement part of the output and monitoring process. As we have set out above we think that making engagement part of the output framework will help to drive the right behaviours while basing measurements around outcomes to passengers will help to drive trust and levels of satisfaction. As also mentioned before, the crucial elements are that the targets reflect passenger priorities and that the measure reflects passenger experiences

More specifically:

- We agree with the broad thrust towards route based regulation. We also welcome the reference in table 5.1 towards more substantial route level customer engagement and for more monitoring at route level. As before, however, we would emphasise the need for this to include passengers – it is not sufficient to just involve train companies.
- We also agree with the conclusion in paragraph 5.26 re the need for routes to have some protection from significant unexpected events – e.g. such as at Dawlish in 2014. Events of this scale can often require a network approach.

Chapter 6: Process and engagement

We would be grateful for comments on the proposed phases of the review, including any views on the [draft timetable](#) and our proposed approach to engagement.

We also invite high-level views on the process for customer engagement by Network Rail's routes and the system operator to inform their business plans, in terms of what is achievable for this review.

We would also welcome any views on how Network Rail and train operators would like to engage and be involved in the implementation process for PR18 and any thoughts on the process relating to Network Rail's right to object to our determination.

We welcome the consultative approach outlined by ORR.

We particularly welcome paragraph 6.20 which sets out how consumers' views will be taken on board, especially in delivery plans for major projects. We would reiterate the importance of this.

We believe that the move to route-based regulation, coupled with the recommendation of the

⁷ You may also wish to read and comment separately on the working papers that we will publish following this consultation document.

Shaw report, provides an opportunity to create a regional framework of engagement that captures and collates the user voice, uses this to influence decisions and then feeds this back to passengers. This requires:

- Research capability: capturing route-based priorities for improvement and passenger satisfaction
- Staff resources: research and analytical capacity; coupled with a stakeholder presence to gather regional intelligence, to feedback results to users and to engage with the delivery of major projects. This feedback-loop with passengers is particularly important.

The route-based reports could be aggregated to create a national overview which could help to inform national decisions (e.g. the High Level Output Statements produced by Governments) and also franchise policy. This process would also fit the 5-year planning cycle for the Strategic Road Network: running both in parallel would generate efficiencies while also giving a sense of strategic regional transport priorities.

We are working up specific proposals designed to deliver this which we would be pleased to discuss with ORR.

Any other points that you would like to make

Thank you for taking the time to respond.

Transport for London

PR18: Initial consultation
Office of Rail and Road,
One Kemble Street,
London,
W2B4AN

Transport for London
Rail and Underground

Palestra
London
SE1 8NJ

10 August 2016

Dear Sir/Madam,

PR18: Initial consultation

This letter sets out TfL's responses to initial consultation on PR 18 and addresses some of the issues raised in the four working papers issued by ORR. TfL is content for its responses to be published and shared with third parties.

Context for the Review

ORR proposes to focus regulation on each of Network Rail's devolved routes. TfL supports the case for greater disaggregation of cost and performance information and the need for benchmarking. It is important that the approach to customer focus is applied consistently across the network so that operators such as London Overground and the future Elizabeth Line are not disadvantaged by the move to route based regulation. Otherwise there is a risk that route managers could be incentivised to favour their larger customers in planning performance improvements or managing operations during disruption in order to meet route level targets.

London Overground operates across four routes and is a relatively small operator on each compared with dominant operators such as Greater Anglia or Southwestern. Network Rail's Transformation Plan states that it is balancing the needs of such operators with those of operators who operate predominantly on a single route and TfL welcomes this approach.

Working paper 1 references the proposed creation of virtual routes for freight and the North of England. As noted in its response to the Shaw consultation, TfL believes that a virtual London and South East route should also be created.

ORR needs to be resourced to undertake effectively the regulation of the routes and the system operator which could lead to increased regulatory workload.

The consultation document reflects the increasing degree of political devolution with the need for a greater role of regional bodies such as TfL in decision making. The structure of regulation should support this change with information produced at a level that enables regional decision making. London is served by six of Network Rail's eight routes and no data is currently produced at London wide level. The review should reflect the needs of regional authorities in the creation of meaningful financial, performance and delivery targets and a greater degree of influence over Network Rail for regional funders.

TfL recommends the setting of targets at operator and if possible at service group level in addition to route level to ensure that Network Rail retains a focus on its customers, the operators. Periodic performance data should also be published at service group level.

TfL supports the continuation of the single till principle but is concerned by the suggestion that the proposed sale of Network Rail land and property would imply an increase in track access charges. This together with proposed changes to Network Grant would increase the charges paid by train operators and, depending on how FTAC is allocated, increase the mileage related charges faced by TOCs. At a time of industry growth, incentives to increase or decrease services could be affected because of a change in accounting practice without any change in the underlying economics of the industry. ORR needs to consider the full implications of increasing traffic related charges.

TfL will need to be held harmless to any changes in the level and structure of charges as these could increase its costs significantly. Even setting aside the expected reduction in property income, Network Grant of £3bn per year is currently paid by Government directly to Network Rail and an equivalent amount would need to be paid to franchised operators and funders were Network Grant abolished.

Focusing the review where it can have most impact for passengers and freight customers

The document shows declining industry wide performance since 2012. The Review should consider the reasons for the decline in performance and the effectiveness of performance incentives which should reflect the impacts on passengers of cancellations and delay. TfL believes that the incentives are currently insufficient to incentivise good TOC performance. TfL's experience is that its customer focused performance regime has maintained performance above the London and South East average.

Although the consultation shows that freight performance has been maintained, delays on London Overground routes caused by freight failures have been increasing. On the North London line, PPM failures caused by freight have more than doubled on a moving annual average basis since the

start of 2015/16. TfL believes freight operators are insufficiently incentivised to maintain performance and to minimise the impact on other operators.

ORR recognises the potential for regulation to support better timetabling to encourage growth on the current network including changes to charging to make better use of the network. TfL would like to see a more thorough review of freight path utilisation in London with a view to moving services operating on London Overground routes during the passenger peak to an off peak period. There is a real opportunity cost to little used paths; our analysis shows that weekday freight path utilisation varies from 25-50% and that moving a small number of paths from the peak to another of the eighteen hours in the day could enable an increase in frequency of London Overground services.

In the current financially constrained environment, the rail industry should make the most of the existing capacity that exists. In some cases, this cannot fail to be more cost effective way of increasing capacity than enhancing the infrastructure. Making better use of the existing network should be a priority for ORR.

TfL supports the case for increasing flexibility of investment to encourage a greater diversity of funders. As a major funder of infrastructure enhancements including the infrastructure required to run 5 car trains on London Overground services, TfL would expect to have a greater role in specifying and monitoring the enhancement projects that it funds. This is consistent with the approach set out in Working Paper 4.

ORR's proposed approach to the review

As noted above, if route managers were to make decisions on use of scarce resources, guidance would be required on how they should coordinate decision making to take account of services operating across two or more routes. A lead route would need to be identified for each service or regulated output and this would need to be coordinated with the system operator.

The system operator should be incentivised and funded to deliver an improvement of the data underlying its timetabling activities. Recent issues surrounding timetabling during the London Bridge works and the production of the future Thameslink timetable have demonstrated the need for better planning data. Timetable Planning Rules need to be updated to reflect current operating conditions in order to optimise the use of capacity, however it is important that the underlying data is correct.

Working paper 2 also recommends better sharing of industry data concerning demand and capacity. TfL's experience is that TOCs are unwilling to share demand data ostensibly for commercial reasons, even when better planning and analysis of the impact of disruption during works would benefit all

operators. ORR's publication of financial information has helped to improve transparency but further steps are needed to encourage data sharing. TfL has an open data policy; this includes demand data. This should be replicated for National Rail.

TfL's Infrastructure Managers (IMs) on the East London Line and the future Crossrail core section need to coordinate planning activities with Network Rail. TfL would like to see a greater focus on data sharing between IMs.

TfL supports the case for improving performance monitoring to better reflect the experience of customers including taking account of delays at all stations and the number of passengers affected by delays to improve accuracy and remove perverse incentives such as skip-stopping. The consultation recognises the need for aligning targets with franchisee and concessionaire targets.

Although the Review is not planned to focus on measurement of freight performance, it should consider whether the incentives are effective in minimising the impact of freight delays on other operators' services.

It is essential that consultation and engagement is open to all interested parties and not just POG or RDG members. TfL as a funder needs to have a central role in industry planning for PR18.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'CASmales', written in a cursive style.

Carol Smales
Rail Development Manager

Response to ORR's initial consultation on the 2018 periodic review of Network Rail (PR18)

This pro-forma is available to those that wish to use it to respond to our consultation. Other forms of response (e.g. letter format) are equally welcome.

Please send your response to pr18@orr.gsi.gov.uk by **10 August 2016**.

Full name	
Job title	
Organisation	Transport for the North and Rail North
Email*	
Telephone number*	

*This information will not be published on our website.

Chapter 2: Context for the review

We invite stakeholders to comment on whether they agree with our view of the context for PR18 or whether they consider there are additional significant points. (If the latter, please explain how these might affect the review).

This response is submitted on behalf of Transport for the North and Rail North, following discussion with their individual participating Local Transport Authorities and Combined Authorities.

The contribution of the rail system to national economic growth and well-being has been widely recognised. In its Northern Transport Strategy, published in Spring 2016, the Government set out the vital role that rail must play in the coming years to help make the Northern Powerhouse vision a reality.

We particularly welcome the recognition by the ORR of recent progress relating to the devolution of rail powers to sub-national transport bodies and the need for the regulatory framework to support devolved governance structures. Alongside this the Government's policy of greater local devolution with particular emphasis on transport has been carried forward by the creation of Transport for the North. These Government initiatives provide crucial context for ORR's 2018 periodic review and we welcome ORR's recognition of this in its consultation.

The consultation document highlights the significant decline in train service reliability in recent years, and major problems with delivery of Network Rail's committed programme of enhancements. These failings are seriously damaging the interests of rail users and the wider community and it is essential that the periodic review addresses them as priorities. Stakeholders need better performance from rail services and therefore an ambitious upgrade programme is needed, which they can have confidence will be delivered on time and as planned.

The Digital Railway and HS2 programmes offer significant benefits in the longer term, but there are reservations regarding the plans for deployment of ERTMS in the North to date. It is therefore critical, that *in addition* to these strategic programmes, it is vital to deliver the many

more modest improvements which are needed urgently to improve services and support economic growth. Funding and resources for such improvements must be protected.

We welcome ORR's proposals for more route level regulation, as set out in paragraphs 2.21 and 3.24, and we look forward to playing a full part in the review. We believe that Transport for North, and Rail North can play an important role in improving the effectiveness of local and regional rail networks. These include, notably: (a) access to more transparent and detailed cost, operational and passenger demand information; (b) greater involvement in the specification and monitoring of regulated outputs and enhancements; and (c) greater oversight of Network Rail and greater local accountability on the part of Network Rail.

There is a very strong need to align infrastructure enhancement with franchise management, in particular through the letting of future franchises. The Rail North Partnership is ideally placed to do precisely that, and indeed has already started to do so through its management of the Northern and TPE franchises, and through its draft submission to the IIA. This would deliver significant benefits for both the railway industry and the taxpayer, and we feel should inform the context of this consultation.

Finally, we urge timely implementation of the recommendation in the Shaw report for Network Rail to create a Northern Route, which will greatly simplify delivering the Government's devolution objectives.

Chapter 3: Focusing the review where it can have most impact for passengers and freight customers

We welcome views on the proposed relative priorities for the review, as well as any other areas that should be prioritised (in which case, we would particularly value views on what should not be prioritised as a consequence).

We substantially agree with ORR's identification of its priorities for the periodic review.

However, achieving a 'better used network' cannot simply be about running additional services. Rail journeys between most major city-pairs in the north of England, even on 'express' services, are far slower than comparable journeys elsewhere on the network. The average end-to-end speed for services between Leeds and Liverpool is just 47mph; between Manchester and Sheffield it is even slower at 44mph. This compares with average speeds of 80-90mph for travel between those cities and London, and what will shortly be circa 65mph Glasgow - Edinburgh. (*Figures from Rail North's Long Term Rail Strategy - 2015*). Higher speeds for journeys between key centres in the North is central to the Government's new Northern Transport Strategy and, therefore, the periodic review and the CP6 enhancement programme must reflect this. While we agree that Network Rail needs to be enterprising in responding to plans for additional services, incentives to run more trains must not be at the expense of accelerating key strategic services which are still very slow.

To achieve a better used network, particularly at a time of constrained funding, it will be essential to ensure that modest investment schemes which can be delivered quickly and unlock significant benefits can still be progressed quickly. It would be perverse if these schemes became casualties of actions taken to address the real delivery and funding challenges arising on the big strategic programmes.

There is a problem with cost estimates in the Route Studies (which are used by Network Rail to decide which enhancement schemes it puts forward), which means that those costs cannot be relied on to inform decisions about scheme choices and programmes.

Recent cost escalation in the Network Rail enhancements programme is another major challenge for the industry and our members are particularly concerned by the lack of engagement and accountability on the part of Network Rail. Given the scale and aspirations for rail in the North, we feel that there is a need to develop a better understanding of the reasons for the decline in performance and escalation in infrastructure costs. There needs to be transparency in whatever mechanism is adopted for assessing and approving the cost of enhancements in CP6, particularly if the development of enhancement schemes is to sit outside of the Control Period and ECAM process. As such, we would also endorse any form of post-scheme assessment of the out-turn costs to understand how they compared with the GRIP4 AFC, including an informed decision as to whether or not the actual final cost was justified.

The emphasis on greater transparency and disaggregation of cost information, and the stated intention to better understand cost drivers and the capability of the network are all steps in the right direction. Those are areas we would encourage the ORR to prioritise in order to ensure that the industry learns from the development and delivery of schemes.

Chapter 4: Our proposed approach to the review

We would like to know if you agree with the overall approach that we have set out for the review.

We would also welcome additional suggestions and proposals for how we might adapt our regulation to the current context. It would be helpful if you could arrange your comments around the headings in the chapter (set out below) where these are relevant to your response.

Route-level regulation

We support this approach. A more local focus in Network Rail, and by ORR, will be entirely consistent with greater political devolution.

The Government's policy of greater local devolution with particular emphasis on transport has been carried forward by the creation of Transport for the North and the direct involvement of Rail North in letting and managing the Northern and TransPennine Express franchises. Route-level regulation will play an important part in realising the benefits of this devolution.

We therefore strongly support plans for greater devolution and ORR's proposals for route-level regulation as means of bringing decision-making closer to rail users and local stakeholders. We welcome ORR's acknowledgement of the important role that Transport for the North and other regional bodies have to play in its periodic review process.

However to realise the full benefit of these moves for customers in the north of England it is essential that the recommendation of the Shaw Report for creation of a Northern route is implemented in a timely manner.

We urge timely implementation of the recommendation in the Shaw report for Network Rail to create a Northern Route, which will greatly simplify delivering the Government's devolution

objectives.

Route level funding

We accept that Network Rail's corporate obligations and interests may, on occasion, require it to reallocate funding between its routes to respond to unforeseen circumstances. However ORR should make clear that this activity would in no way affect its obligations still to deliver agreed route-level outputs.

We are therefore concerned when ORR says (para 40) "...if funding is transferred out of a route its job may have been made more difficult, and our assessment of route-level business performance would need to reflect this."

If ORR considers it appropriate to make some allowance, at a route level, for reductions in funding made by Network Rail HQ, it must ensure that Network Rail HQ itself is held properly accountable for any subsequent failure of the route to meet its obligations.

We note ORR's intention (para 46) to consult on the treatment of financial risk at route level, and the implications for any devolved regional funders. Transport for North clearly has a significant interest in this matter and look forward to ORR's proposals. -suggest (para 104) that Network Rail's customers and stakeholders will have particular interest in the specification of outputs and we agree with ORR on this point.

Outputs

Ideally the Northern route will be in place in time for the review to set outputs at this level. However, should it not be, great care will be needed to ensure that outputs set for the existing routes are relevant and suitable for customers in the north of England. It is crucial that the needs of this substantial and important group, and Network Rail's performance in meeting them, are not obscured by being divided and rolled into route measures in which other services predominate.

It is also very clear from the experience of the last 20 years that the performance measures used, and the incentives set for Network Rail and train operators need to be carefully aligned, if not identical. Misaligned incentives would seriously undermine the cooperation necessary to deliver better system performance. We will wish to engage closely on this matter at the appropriate time.

ORR Scrutiny

We welcome ORR's intention (para 106, para 127) to assess the effectiveness of Network Rail's engagement with customers and stakeholders, and the extent to which it has buy-in from these groups for the plans it submits.

It will be important that stakeholders are given sufficient time to scrutinise the plans finally submitted by Network Rail and to provide considered feedback to ORR, and we are keen to understand how this process might work.

It will be equally important that Network Rail engages effectively with stakeholders in preparing its delivery plans (para 150-151) and that there is time for them to be properly considered before ORR approves them.

System operation

We agree that greater devolution to routes within Network Rail must be supported and

coordinated by an effective overall system operator function. It will be important that this central function is kept focussed and efficient. This will require a radical change of approach by Network Rail, which is used to operating with a large and powerful HQ. The system operator's remit, objectives and resourcing should embrace only genuine 'network' issues and must not duplicate activities which are better performed at individual route level.

A key objective of Network Rail devolution is to increase its responsiveness to its customers – the train operators - and to other local stakeholders. The routes must have clear lines of accountability to customers and stakeholders to ensure that the system operator is responsive to their needs. Current problems will be exacerbated if routes have insufficient leverage on the system operator, and this would undermine their own accountability.

We therefore welcome ORR's intention to develop a specific new approach to regulating the system operator functions. We agree that this approach must address not only the efficiency of the system operator but also its effectiveness in supporting the routes to meet the needs of their customers. We strongly support the inclusion of customer-facing measures in the assessment of the system operator's performance; these need to embrace not only timetabling but also the agreement of access rights and delays or problems arising from infrastructure failures.

Outputs & monitoring

We welcome ORR's proposal to increase the involvement of train operators and other local stakeholders in setting outputs, within the overall context of the HLOS.

We also welcome the intention to improve how the experience of passengers is reflected in output measures and monitoring. However, we have reservations about the proposal to take account of only the number of passengers on each service in monitoring performance. If the approach taken here is too simplistic it would create a situation where Network Rail has no real incentive to maintain the performance of the more lightly-used services. This would be unacceptable. These services are included in franchise specifications, at considerable cost in public money, because of their social and economic importance. Network Rail must continue to face effective incentives to protect and improve their performance.

It is also very clear from the experience of the last 20 years that the performance measures used, and the incentives for Network Rail and train operators need to be carefully aligned, if not identical. There is a disconnect between the PPM and CaSL targets allocated within franchise agreements, those allocated to NR at Route level, and the requirement for JPIPs to be developed. This variation leads to a conflicting interest in achieving set regulatory targets, and we would request that ORR seeks to redress this for the benefit of customers, and the industry.

As a principle, we feel that all TOC services should be required to meet the national standard of reliability, both PPM and CaSL. The current position on both ECML and WCML whereby our (Rail North area) services to/from London are allowed to perform below the national standard, has a significant impact on the wider North, and is unacceptable. In addition to providing crucial connectivity for most of the Rail North area to/from London, both the ECML and the WCML provide important connectivity within the Rail North area (e.g. Newcastle - York, or Preston - Carlisle), and connectivity between the Rail North area and other significant parts of Britain e.g. Scotland, Birmingham/the West Midlands, the West Country etc).

We would request that ORR requires Network Rail to identify what works are required to address and resolve the causes of this below national standard performance, so as to bring both lines' performance up to the national standard at the earliest possible date.

Misaligned incentives would seriously undermine the necessary cooperation to deliver better system performance. There needs to be an incentive mechanism for Network Rail to reduce

whole industry costs and clarity on the commitments in the Secretary of State Guidance should be considered.

ORR should have regard to the effect on 'Periodic Review' issues of decisions that it (ORR) takes outside the Periodic Review process, including level crossings and open access rights (e.g. on the ECML). These 2 measures in particular can and do have a detrimental effect on (variously) the costs and revenue for franchised TOCs; on the ability of both Network Rail and franchised TOCs to achieve required levels of reliability (both PPM and CaSL); and on the availability of resources (e.g. signalling engineers) for schemes which are required for the fulfilment of franchise obligations.

We would request that ORR specifically acknowledges the link with the periodic review, and that a clear process is developed to ensure that any such decision making has the necessary rationale/justification, and that supporting evidence is provided to meet the standards of transparency and testability that are used elsewhere in the periodic review.

Once route level outputs have been set in ORR's determination, Network Rail must not be able to flex them between routes, unless it has the full agreement of the train operators affected, and regulatory bodies such as Rail North and Transport for the North too.

One area that seems to have been largely missed out from the consultation document is station devolution. This is a topic of significant interest to our organisation and one which we are also actively exploring through the joint work of the Urban Transport Group. At this point, we only wish to flag up the need for the regulatory framework to take account of the possibility that new station ownership and development models may emerge in the course of the Periodic Review.

At a practical level, the key enabling factor, from a regulatory point of view, is an improved and detailed understanding of asset condition, and the importance of identifying and protecting funding for stations from a regulatory point of view and periodic review perspective as well as the ability for Transport for the North to better understand the geography and socio economic cases to facilitate and optimise station development.

As part of the PR18 periodic review, Network Rail should be required to make an assessment of the resilience of the network, including resilience to all 4 main aspects of adverse weather (flooding, high wind, ice and snow, and excessive tides), and resilience in every day operation. The Rail North area suffers far more from adverse weather than any other part of England and Wales.

Nearly all of the locations which repeatedly featured on the national news as experiencing the worst flooding are in the North of England. The main locations in the south of England with railway lines that have experienced repeated disruption from adverse weather - at Dawlish, Exeter and Chipping Sodbury - have all had extensive infrastructure works to address their problems. However, the various locations in the North of England which regularly have flooding problems - York, the Calder Valley, Carlisle, Cumbria, Lancashire etc - have not yet had the railway strengthened and so suffer repeated line closures and consequently severe disruption.

In general, ice and snow is more prevalent the further north one goes, and on average the Rail North area receives far larger amounts of ice and snow, and therefore suffers more disruption from ice and snow, than is the case in the rest of England and Wales.

The ECML and WCML suffer more OLE problems due to high wind than any other lines in Britain, in particular on their northern sections

Significant parts of the network including in the Rail North area, are operating with very little resilience to any day-to-day disruption. The network is vulnerable to trains being delayed in the

first instance, but there is insufficient capacity to recover from such disruption as does occur which often means that a single train running late through a busy location will cause a very large resulting knock-on delays, including trains at other locations.

This lack of resilience is undoubtedly a significant part of the reason why the national network persistently (for year after year after year) fails to meet the requirements stipulated by the Secretary of State in successive HLOSs. We would draw attention to the persistent underperformance (i.e. failure to meet the national PPM standard) of northern services right across the North West, and Rail North requires this to be properly addressed in the periodic review.

We would also like to point out how well-placed Rail North is to initiate and drive a significant improvement in dealing with these challenges, through both the Rail North Partnership and the proposed Northern Route of Network Rail. It is also worth mentioning the Transport for Greater Manchester capacity study which should identify many of the root causes of existing problems.

Charges & incentives

We support ORR's aim of achieving a better understanding of infrastructure costs. This is important both to inform better decision making about use of the network and to drive overall cost reduction. Matching variable access charges more closely to local cost structures will help, but needs to be accompanied by a coordinated review of how 'fixed' charges are allocated. Variable costs can be high on routes where the basic infrastructure receives little investment, because a greater burden is then placed on maintenance. Such routes should attract a lower proportion of fixed charge.

A proper understanding of cost drivers must take the full picture into account, and both fixed and variable charges must reflect this. Even if, when all franchised services were sponsored by the Secretary of State, the allocation of fixed charges was to some extent academic, as devolution progresses this is no longer the case.

We welcome the proposal that Open Access operators should make a contribution to network fixed costs. These services provide real customer benefits but, at present, do so at the expense of the public purse as they capture revenue from the core network while making only a small contribution to costs through access.

Approaches for enhancements

We note the issues related to the treatment of enhancements. We will send a fuller written response to ORR's working paper on this subject *[when it is published]*.

While we can see that there would be advantages to taking the larger, strategic enhancement programmes outside the periodic review process, we do not believe this applies to smaller schemes. Modest investments in enhancements to improve performance, capacity, connectivity or passenger facilities can provide excellent value for money. They will generally be straightforward for Network Rail to deliver, bringing customer benefits more quickly and at lower risk. Driving continuous improvement through such schemes is particularly important at times when funding for larger programmes is severely constrained. We believe it is essential that sufficient funding is provided, through the periodic review, for smaller schemes to be taken forward separately from any new process governing the strategic programmes. This should include ring-fenced funds for tactical deployment during CP6, with appropriate governance arrangements which include local train operators and stakeholders.

A central purpose of Rail North is to drive growth of both passenger and freight in the North of England at a rate greater than the national figure, as part of rebalancing the national economy e.g. 40% passenger growth by 2022 and very substantially beyond that in further franchises. Network Rail should therefore be required to assess the most cost-effective way of

accommodating longer-term growth, including whether it is beneficial to stage the necessary enhancement, rather than simply providing a minimum first stage in isolation from future need.

For the periodic review process, we would request that the ORR takes a much longer term view of the efficiency of enhancements that has been the case in previous Periodic Reviews, and we propose that Rail North should be instrumental in moving Network Rail to a position of far better long-term efficiency for enhancements.

At present, there is essentially no consideration of future proofing in enhancement schemes. Each enhancement by Network Rail provides only the smallest intervention that is necessary to meet the immediate requirement but takes no account of the need for future expansion. The result is that, even after enhancement, many parts of the rail network are still at capacity with all the difficulties that brings greater unreliability; more difficult/expensive to arrange maintenance possessions; inability to accommodate future growth etc).

Cost effectiveness is one of the 4 key objectives set out in the Rail North long-term rail strategy. Rail North and Transport for the North plans for growth of both passenger and freight exceed what is planned nationally, partly because the North of England has significant economic growth plans, but also to meet the high level Government imperative to rebalance the national economy. Therefore, there needs to be appropriate mechanisms to meet the specific (and different) requirements of the North of England. Through our management of the two franchises, the Rail North Partnership is ideally placed to work with a Network Rail 'northern route' to develop such appropriate mechanisms, and we also propose that Rail North should be given a central role in developing a move away from the current short-term process to a position of much enhanced longer term efficiency.

It is important to underline that the greatest contribution that Rail North, Transport for the North, and the city region can make is to assess the overall balance of interventions (e.g.: capacity allocation, targeted infrastructure improvements as part of renewals, rolling stock investment, as well as more conventional infrastructure enhancements) and to select the combination that delivers the best outcome, from a wider economic and social perspective, in the most cost effective way.

ERTMS and related technology

ETCS L3 does not exist as a standard, with 27 variations currently being applied across Europe, and as a result confidence is being undermined in the ERTMS system as a whole. The relationship between performance, capacity and cost on the UK rail network is largely determined (and constrained) by antiquated signalling, but implementing ERTMS as currently proposed by Network Rail looks both unaffordable and unlikely to deliver the desired performance and/or capacity improvements.

Both Rail North and Transport for the North feel that we could play a key part in helping roll this out cost effectively across the North of England. In particular, we would point to the cost effectiveness of early deployment of ERTMS to replace existing semaphore signalling, the majority of which is now in the Rail North area. The ROC migration programme undertaken by Network Rail is very late, and there are a number of lines serving our key cities where evening train services do not occur much beyond 2300 hours, thus damaging their emerging night time economies.

The current performance of Network Rail in delivering signalling schemes is also a concern, with slippage, delays, and cost overruns being commonplace. We feel that there are very significant cost savings that Rail North could help realise by revising Network Rail's current very expensive plans to replace much of this semaphore signalling with other line side signals (colour light), which ERTMS would render redundant in a very short time.

We recommend that prioritisation is given to the deployment of traffic management systems and the associated decision support tools to maximise punctuality performance across the North as soon as is practicable. We would request that the development and securing of the funding, the specification of the outputs, and the commissioning of this work should sit with Transport for the North. Utilising the regulatory powers set aside for determining HLOS, we would welcome further discussion on this matter, and in particular, any wider industry options for funding, optimising delivery, and providing a more cohesive, efficient, system wide solution.

Chapter 5: Developing the high-level framework for the review

We welcome views on how our high-level approach could be implemented and on the potential framework set out in chapter 5. As part of this, we invite thoughts on what it is practicable to achieve in PR18 and in CP6, and what might be more realistic to achieve in the subsequent periodic review.¹

We would also welcome any further suggestions and ideas on how we might improve how we regulate Network Rail.

We support the overall approach proposed by ORR.

In permitting Network Rail flexibility to reallocate money across routes (para 5.26) it will be essential that any such action does nothing to relieve the company of the obligation to deliver its committed outputs on every route. We strongly support ORR's proposal to develop route-level monitoring and reporting. However, route level reporting under the current route structure would be of only limited use to Transport for the North and its partners. It will be of immeasurably greater value, and easier for Network Rail to align with train operator measures, once a Northern Route is created as recommended by the Shaw report. Of course, such reporting must be sufficiently frequent to expose at an early stage any emerging problems and enable effective intervention with Network Rail resolve to resolve them quickly. While annual reporting is sufficient for some matters, others – in particular train service performance and the underlying causes of performance problems – must be reviewed and reported more frequently.

Chapter 6: Process and engagement

We would be grateful for comments on the proposed phases of the review, including any views on the [draft timetable](#) and our proposed approach to engagement.

We also invite high-level views on the process for customer engagement by Network Rail's routes and the system operator to inform their business plans, in terms of what is achievable for this review.

We would also welcome any views on how Network Rail and train operators would like to engage and be involved in the implementation process for PR18 and any thoughts on the process relating to Network Rail's right to object to our determination.

¹ You may also wish to read and comment separately on the working papers that we will publish following this consultation document.

We welcome ORR's proposed greater focus on devolved routes and political devolution, and the engagement set out in paragraph 6.24. Transport for the North and Rail North, together, are ready and committed to engage fully with ORR in this.

We agree with ORR (paragraph 6.15) that it would be helpful for the Rail Delivery Group (RDG) hosted working groups to have wider membership and we ask to be kept fully informed of opportunities to participate in these groups. We will also wish to engage directly with ORR where this is more appropriate.

In the event that the ORR decides to make use of the RDG's resources to develop some of the work for PR18, we strongly support the principle that these need to be open to the wider stakeholder community. In the past, we have not always been kept abreast of progress with RDG work-streams despite our initial involvement (presumably, because of inconsistencies in mailing lists) and feel that it would be best if communications relating to any stakeholder events continued to be dealt with by the ORR.

Finally, in the context of the Government's clear devolution agenda, we request that Transport for the North is now included in the PR18 Joint Steering Group chaired by ORR, or as a minimum that we are included among those parties - such as the Welsh Government - who are consulted on draft documents prepared for this Group.

Any other points that you would like to make

Rail North and Transport for the North welcome this consultation, and would very much like to discuss a number of the points raised in further detail, such that there is a clearer understanding of our requirements and aspirations, particularly given the fast evolving devolution agenda.

We would request that any such meetings are coordinated with Rail North's Director, David Hoggarth.

Thank you for taking the time to respond.

**Director of Rail
Rail**

Buchanan House, Glasgow G4 0HF

Joanna Whittington
Chief Executive
Office of Rail and Road
1 Kemble Street
London
WC2B 4AN

By e-mail

Your ref:

Our ref:
PR18/ICD/01

Date:
August 2016

Response to the ORR PR18 Initial Consultation Document

Thank you for the opportunity to respond to your *Initial Consultation on the 2018 Periodic Review of Network Rail (PR18)*. 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 document.

A separate Periodic Review for Scotland

The initial consultation document sets out the context for the review, including: growth in demand; Network Rail's reclassification as a central government body; and, the findings and recommendations from the various reviews that have completed over the past 12 months, including options for further devolution of responsibilities. Clearly PR18 provides a significant opportunity to reflect on the substantially changed financial and political context in which the railway now operates, and also on the emerging lessons learnt both from the preparation for and implementation of the Control Period 5 (CP5) determination.

The principle of a separate regulatory determination for Scotland is well established and understood. Equally, one of the successes of the PR13 process was the ORR's acceptance of the need to undertake a separate periodic review for Scotland, ensuring the regulatory framework could be flexible to respond to the specific and often distinct objectives and priorities of the Scottish Government. We would expect this approach to strengthen for PR18, with a renewed focus on supporting the delivery of improved outcomes for all rail customers in Scotland.

Scotland's Railways

Scotland's railways continue to thrive with strong growth in patronage recorded over the past 20 years, well beyond expectations, and a record of around 93 million journeys last year. Cross-border journeys have also grown significantly, with demand in some key markets almost tripling over last five years. Substantial investment in the rail infrastructure since devolution has supported this growth through provision of new and improved infrastructure, new rolling stock, and significantly more services.

Scotland's railways remain vital to economic growth and to the prosperity and quality of life: linking our key communities to employment, industries and markets, and providing access to visitor attractions across the country. Our current £5 billion programme of investment is

substantially underway and will deliver major improvements to infrastructure and services by 2019. Recent increases in costs and risks to short term programme milestones for major projects have been unsatisfactory and we will continue to work with the industry to ensure that the benefits from the Scottish Government's substantial investment programme are being maximised.

In terms of industry structures, the recent emergence of the ScotRail Alliance has been a success, helping to better place customers' needs at the heart of all railway planning and delivery in Scotland. We expect this to evolve and strengthen over time, including the relationships and engagement with other passenger and freight operators, supporting the delivery a transformative change to the quality and provision of our railway services.

Objectives for PR18

Our overarching vision is for a railway that supports the Scottish Government's aim for sustainable economic growth. In support of this, and in line with framework set out in the Scottish Government's overarching Economic and National Transport Strategies, our approach to the development of the rail infrastructure and services will continue to be driven by the following outcomes:

- improved journey times;
- increased capacity;
- improved performance;
- better connections between cities and regions;
- enhanced passenger and freight services;
- improved sustainability; and
- improved efficiency and value for money.

Our planning for the High Level Output Specification (HLOS) and Statement of Funds Available (SoFA) is underway but remains in the early stages of development. We are, however, clear on our broad objectives for PR18 which are:

- to support a **credible regulatory determination that is challenging but deliverable**;
- to ensure that the regulatory framework for rail in Scotland is developed with the **needs and priorities of customers at its heart** and is sufficiently flexible to adapt to local circumstances and priorities;
- to ensure that the regulatory framework can better support **further industry reform and devolution of responsibilities, building on the success of the ScotRail Alliance**;
- to ensure a regulatory framework that can support **higher and more stable levels of railway performance** than can better meet the reasonable expectations of its customers;
- to ensure a regulatory framework that can **support new and improved processes** for the specification, governance and funding of any enhancement projects required to support growth after all reasonable service based options have been considered;
- to ensure the regulatory determination provides **certainty on overall funding requirements**, covering all necessary funding to deliver the HLOS and protecting the integrity of the Railways Act 2005;
- to ensure the regulatory framework can **improve the environmental sustainability and resilience of the railway**, making a full contribution to the Scottish Government's climate change agenda.

The format of our HLOS and SoFA will likely differ from those published previously. In terms of the approach to specifying major enhancements, Network Rail's reclassification as a central government body, our practical experiences of major projects delivery in CP5, and the requirement to consider a broader range of funding models, it is unlikely that the Scottish Government will commit to individual projects through the HLOS unless these are sufficiently

developed, their business cases proven, and costs and affordability are certain. This pipeline-based approach is similar to that being considered by the UK Government and we look forward to working with the ORR to refine these plans.

Proposed Process and Engagement

We fully support the open and inclusive approach set out by the ORR. The publication of separate working papers has been helpful, particularly in terms of the constructive debate that these have helped stimulate in concert with the aligned working groups established by the Rail Delivery Group (RDG). We look forward to our continued involvement in these discussions and will submit our comments in relation to each of the individual working papers in due course.

In order to ensure that the consultation process is as iterative as possible, it would be helpful if the ORR published a brief conclusion note highlighting the main issues raised in response to each Working Paper and outlining where their emerging thinking has changed as a result of the feedback to the Working Paper. It would be particularly helpful if any such conclusion notes were published in advance of the critical financial framework consultation commencing December 2016.

We note the timetable set out by the ORR to complete the periodic review process, particularly in terms of the submission of our HLOS and SoFA. In terms of our own preparations, we will continue to apply the open, inclusive, whole-industry approach that was successfully implemented during PR13.

Devolution, Route-Based Regulation and System Operation

Though devolution has been a clear success for Scotland's railways the Scottish Government has been clear that the rail industry in Scotland should be fully devolved, including Network Rail in Scotland. Further devolution would provide greater whole-system accountability to the Scottish Parliament, and enable all rail services to maximise their full potential through collaboration and tailored, more localised solutions.

The principle of increased local autonomy and collaborative working was strongly endorsed in Nicola Shaw's recent report into the future structure and funding of Network Rail. The first step in this process will be to increase the pace and depth of Network Rail decentralisation, reducing its historically large corporate structure, promoting a whole-industry, customer focussed approach, and strengthening relationships with and accountability to funders. We note that the focus of much of this to date has been on England and Wales, introducing route-based regulation and moving devolution in these operating routes up to the levels that we have enjoyed for some time.

In terms of system operation, we made clear our priorities through the policy consultation that you held last year. The systems operator role has both a spatial and sectoral dynamic to it, which may not in all circumstances benefit from a singular, consistent approach across the GB network. The right approach has to balance the differing needs of ensuring an alignment of the System Operator functions and local priorities while protecting the position of both freight and passenger services which operate across a number of routes. It is vital that the System Operator role is fully understood, particularly in the context of other retained Network Rail HQ functions.

The ORR's proposals for devolution and route-based regulation is welcome although a different, more substantive approach will be clearly be required for Scotland and PR18 will be vital to achieving this. We look forward to engaging fully with the ORR and other industry stakeholders to support your stated aspirations for a more efficient, safer and better utilised network for passengers and freight customers.

Charges and Incentives

The setting of charges and incentives will clearly be a critical part of the PR18 process and we look forward to engaging with the ORR and broader industry on the specific points of detail.

At this stage we would emphasise:

- the importance of revisiting discussions around the allocation of Fixed Track Access Charges (FTAC) to individual train operators, particularly given emerging investment opportunities for key cross border routes in Scotland;
- the importance of transparency in reaching specific decisions around any changes or otherwise to the existing regime;
- the need to ensure a full and proper understanding of the practical impacts of any changes, being realistic in terms of what charges and incentives can achieve and how this may differ across the often distinct railway markets in different parts of GB, and
- the need to ensure proper alignment with regulatory and contractual frameworks, particularly franchise contracts, across the broader industry.

We would endorse the position of considering fundamental changes where they are likely to lead to a significantly better outcome for rail customers.

Conclusion

We welcome the ORR's proposed approach for PR18, in particular the emphasis in placing the needs of customers at the heart of your approach, and of the need for a more locally accountable Network Rail. This will be a challenging programme of works and we look forward to our open and constructive engagement continuing over the coming weeks and months.

Yours sincerely,

Aidan Grisewood
Director of Rail

Response to ORR's initial consultation on the 2018 periodic review of Network Rail (PR18)

This pro-forma is available to those that wish to use it to respond to our consultation. Other forms of response (e.g. letter format) are equally welcome.

Please send your response to pr18@orr.gsi.gov.uk by **10 August 2016**.

Full name	
Job title	
Organisation	TravelWatch SouthWest
Email*	
Telephone number*	

*This information will not be published on our website.

Chapter 2: Context for the review

We invite stakeholders to comment on whether they agree with our view of the context for PR18 or whether they consider there are additional significant points. (If the latter, please explain how these might affect the review).

The South West is seeing record amounts of investment being put into rail by local authorities including the Devon Metro and MetroWest in Bristol. This investment, however, is experiencing increasing timescales and cost pressures and puts at risk similar locally funded schemes in the future.

For the ORR if it wishes to attract a wider diversity of funding then it must find ways for Network Rail to make itself more attractive to investors through improving delivery times and ensuring greater value for money.

Getting the most out of the existing rail network (2.17 and 3.18) is clearly important but it is questionable as to how much more can be squeezed out when this has long been Network Rail's policy. By focusing on best use the issue of providing new capacity is simply ducked.

Chapter 3: Focusing the review where it can have most impact for passengers and freight customers

We welcome views on the proposed relative priorities for the review, as well as any other areas that should be prioritised (in which case, we would particularly value views on what should not be prioritised as a consequence).

TravelWatch SouthWest supports all the high level outcomes in Figure 3.1. In particular we look to a network that is 'Better used' and 'Reliable' as priorities and note that safety should be taken as a given and not subject to prioritisation.

The South West has witnessed tremendous increases in passenger numbers over the last decade [do we have figures readily to hand?] with the network and services struggling to cope. This makes relying on getting the most out of existing infrastructure looking like only a very temporary fix. More long term planning for new capacity is needed. We are alarmed by references in section 6.22 in the Periodic Review to there being possibly no new enhancement schemes.

Proposals for the devolution of transport decision making to regional funders and new opportunities presented by the devolution of responsibilities to Network Rail's routes are supported.

Chapter 4: Our proposed approach to the review

We would like to know if you agree with the overall approach that we have set out for the review.

We would also welcome additional suggestions and proposals for how we might adapt our regulation to the current context. It would be helpful if you could arrange your comments around the headings in the chapter (set out below) where these are relevant to your response.

Route-level regulation

We welcome the proposal for greater involvement by stakeholders in informing route plans and their scrutiny with increased transparency. We request that TravelWatch SouthWest is seen as a stakeholder.

System operation

Outputs & monitoring

Charges & incentives

Approaches for enhancements

ERTMS and related technology

Chapter 5: Developing the high-level framework for the review

We welcome views on how our high-level approach could be implemented and on the potential

framework set out in chapter 5. As part of this, we invite thoughts on what it is practicable to achieve in PR18 and in CP6, and what might be more realistic to achieve in the subsequent periodic review.¹

We would also welcome any further suggestions and ideas on how we might improve how we regulate Network Rail.

The route based approach with a financial settlement for each route and with greater transparency and input from stakeholders is welcomed. The experience of the South West in 2014 of severe flooding on the Somerset Levels between Bristol and Taunton and storms destroying the sea wall at Dawlish Warren underlines the need for a central route reserve to deal with such emergencies.

We are concerned that Network Rail's ability to deliver projects in CP6 will be hampered by limits to their borrowing powers. Consideration should be given to relaxing these limits to ensure enhancements are delivered and not postponed into later Control Periods.

Network Rail schemes which we believe should be achieved in PR18 and CP6 are:

Completion of the electrification of the Great Western Main Line

Bristol East Junction

Bristol Temple Meads Master Plan

Peninsula Rail Task Force measures to improve resilience and increase line speeds to Taunton, Exeter, Plymouth and Penzance

[to add other schemes?]

Chapter 6: Process and engagement

We would be grateful for comments on the proposed phases of the review, including any views on the [draft timetable](#) and our proposed approach to engagement.

We also invite high-level views on the process for customer engagement by Network Rail's routes and the system operator to inform their business plans, in terms of what is achievable for this review.

We would also welcome any views on how Network Rail and train operators would like to engage and be involved in the implementation process for PR18 and any thoughts on the process relating to Network Rail's right to object to our determination.

¹ You may also wish to read and comment separately on the working papers that we will publish following this consultation document.

TravelWatch SouthWest, representing passenger groups across the South West should be viewed by the ORR as a key stakeholder when discussing working papers and holding workshops and meetings (6.12).

We would also like the Railway Development Group to be opened up to TravelWatch SouthWest (6.15).

Any other points that you would like to make

Thank you for taking the time to respond.



URBAN TRANSPORT GROUP

The voice of UK
urban transport

Consultation response

PR18 Initial Consultation

Office of Road and Rail

August 2016

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Urban Transport Group
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Content

1. Introduction	1
2. Context for the review	1
3. Focusing the review where it can have most impact for passengers and freight customers	2
A focus on regulating at route level	3
Improving system operation	4
Refining the framework for outputs and how these are monitored	5
Increasing transparency around costs and improving incentives	5
Supporting new ways to treat enhancements	6
ERTMS and related technology	6
4. Developing the high-level framework for the review	6
5. Process and engagement	6

1. Introduction

- 1.1. The Urban Transport Group (UTG) represents the seven largest city region strategic transport bodies¹ in England, which, between them, serve over twenty million people in Greater Manchester, London, the Liverpool City Region, the North East Combined Authority area, South Yorkshire, the West Midlands conurbation and West Yorkshire. Nottingham City Council, the West of England Partnership and Strathclyde Partnership for Transport (SPT) are associate members of the UTG.
- 1.2. Our members plan, procure, provide and promote public transport in some of Britain's largest city regions, with the aim of delivering integrated public transport networks accessible to all.
- 1.3. We understand that some of our members, as well as Rail North and Transport for the North, are providing their own evidence to this consultation and we have worked closely together on our responses. In this response, we have focussed on issues of common concern to city region transport authorities.

2. Context for the review

- 2.1. We agree with the ORR's assessment of the context for the current Periodic Review.
- 2.2. We particularly welcome the recognition by the ORR of recent progress relating to the devolution of rail powers to sub-national transport bodies and the need for the regulatory framework to support devolved governance structures.
- 2.3. We believe that, now more than ever, city region transport authorities can play an important role holding Network Rail to account and improving the effectiveness of local and regional rail networks.
- 2.4. But we need the right tools for the job. These include, notably: (a) access to more transparent and detailed cost, operational and passenger demand information; (b) greater involvement in the specification and monitoring of regulated outputs and enhancements; and (c) greater oversight of Network Rail and greater local accountability on the part of Network Rail.
- 2.5. We take reassurance from the fact that all these points are covered in the consultation document in some form, even if there is much work still to do on the detail. We recognise that there are challenges to develop effective regulatory mechanisms that take advantage of the local expertise of devolved transport bodies and are keen to support the ORR in this task, especially where we may be able to offer a complementary perspective or bring together different devolved bodies.
- 2.6. One common concern amongst our members relates to the funding implications that will result from the liquidation of some of Network Rail's income generating assets. These could also have an impact on devolution plans, in particular in those areas that are considering a more active role in relation to local rail stations.

¹ With the exception of Transport for London, these bodies were formally known as Passenger Transport Executives (PTEs) and the UTG was formerly known as the Passenger Transport Executive Group (*pteg*). In recent years, some PTEs have been abolished with their functions transferred onto successor bodies, such as Combined Authorities. The new name for our group reflects these changes.

2.7. Although we accept that these decisions are largely beyond the ORR's remit, we believe that the Periodic Review process can play an important role in spelling out the implications for the industry's long term financial sustainability.

3. Focusing the review where it can have most impact for passengers and freight customers

3.1. We broadly agree with the ORR's proposed high level priorities for the current Periodic Review.

3.2. Poor performance is a major source of anxiety for passengers, and therefore a key concern for local decision makers. Our members also have long-standing concerns that the existing core reliability metric, Public Performance Measure or PPM², does not adequately reflect the real world experiences of many passengers and that it creates perverse incentives for Network Rail. Although the growing emphasis on right time arrivals is to be welcomed, we feel that this still does not go far enough. One particularly important issue is to do with connecting train journeys, for which there is no adequate reliability metric. To give an example of how this affects operational decisions, in some circumstances, it may be preferable for a train to be ten minutes late than for some passengers on an earlier service to be an hour late because the connection was not held.

3.3. Recent cost escalation in Network Rail enhancements programme is another major challenge for the industry and our members are particularly concerned by the lack of engagement and accountability on the part of Network Rail.

3.4. But we feel the review needs to go beyond setting potentially unrealistic targets and developing yet more complex incentive mechanisms. We would rather see effort going into developing a better understanding of the reasons for the decline in performance and escalation in infrastructure costs, including an assessment of the effectiveness of existing and past incentive mechanisms. We would also like the ORR to proactively encourage a culture where costs and ways of working can be meaningfully challenged. There are concerns amongst some of our members that there is insufficient technical know-how within Network Rail to do this effectively.

3.5. The emphasis on greater transparency and disaggregation of cost information, and the stated intention to better understand cost drivers and the capability of the network, are of course all steps in the right direction. Those are areas we would encourage the ORR to prioritise and develop further.

3.6. City region transport authorities are keen to have a greater role in specifying and monitoring enhancement projects that they fund and/or specify. The current arrangements for third-party funded enhancements are particularly unsatisfactory. Delivery is generally considerably slower and more expensive than originally agreed, and this is often compounded by a sluggish response on the part of Network Rail.

3.7. Greater transparency and a better understanding of cost drivers, especially at local level, would potentially help us to scrutinise Network Rail more effectively. But this doesn't resolve the fundamental problem that Network Rail is largely un-accountable to any stakeholders other than the Department for Transport. We are not entirely sure that any of the proposals in the initial consultation documents go far enough to address this issue. We would therefore be

² Defined as the percentage of trains which arrive at their terminating station on time.

keen for the ORR to explore more radical options for how city region and sub-national transport bodies could exercise greater effective power over Network Rail.

- 3.8. We fully accept that improved timetabling and capacity allocation can help support traffic growth on the existing infrastructure. It is therefore right that making better use of existing networks should be a priority for the review.
- 3.9. However, we would also point out that achieving a 'better used network' is not necessarily just about running additional services. For example, it can also be about speeding up existing trains or improving the integration between different services so as to enable faster and more reliable connecting journeys.
- 3.10. Many parts of our regional rail network have suffered from years of under-investment. In parts of the country, this has contributed to slow, sub-standard services, which are not able to reach their full demand potential. Accelerating existing strategic services rather than fitting more slow trains on the network is arguably the greater priority in such instances. Regulatory mechanisms need to be carefully designed so as not to introduce perverse incentives. One suggestion for the design of a future volume or capacity incentive would be to factor in changes in operating speed (or the attainment of speed thresholds) as well as changes in train-kms.
- 3.11. Another example is provided by integrated clock-face timetables³, which are designed to allow near simultaneous arrivals and departures, at regular intervals, across a range of trains at nodal stations so as to maximise transfer opportunities between connecting services. This approach can require greater track and platform capacity at nodal stations to accommodate a given number of trains per hour but can arguably deliver a more efficient network from a passenger perspective.
- 3.12. Ultimately, these are examples of the types of trade-off that city region and sub-national transport bodies are best placed to make. Such decisions are about more than simply growing the number of train-kms on the network, they are about choosing the types of intervention that maximise the economic and social benefits delivered by rail networks.
- 3.13. It is reassuring to know that the ORR is looking at options for greater flexibility in the approach to enhancements, which could mean that some funders may choose to take a larger role in ensuring that projects are effectively scoped and delivered efficiently.
- 3.14. But it is important to underline that the greatest contribution city region and sub-national transport bodies can make is to assess the overall balance of interventions (e.g.: capacity allocation, targeted infrastructure improvements as part of renewals, rolling stock investment, as well as more conventional infrastructure enhancements) and to pick the combination that delivers the best outcome, from a wider economic and social perspective, in the most cost effective way. So this greater flexibility should go beyond the enhancements process.
- 3.15. In the limit, the most effective rail interventions could be prioritised against other types of intervention elsewhere on the transport network. This is the way our members generally operate and it also seems to be the direction of travel for sub-national transport bodies.

A focus on regulating at route level

- 3.16. We welcome the ORR's proposals for greater regulatory focus at the route level.

³ This is a loose translation of the original German phrase *Integraler Taktfahrplan*.

- 3.17. We believe this will enable more effective oversight of Network Rail's performance (for example, through benchmarking), better engagement between Network Rail and its customers, and facilitate the move towards greater political devolution to city regions and sub-national transport bodies.
- 3.18. On the last point, we would encourage the ORR to do whatever is in its power to deliver a Network Rail North of England route, as recommended in the Shaw report. We also note that one of our members, Transport for London, is calling for a new London and South East route.
- 3.19. A greater focus on route regulation may also help align what are currently fragmented performance incentives (i.e.: NR PPM targets, franchise commitments and JPIPs).
- 3.20. However, route regulation will not necessarily fix the fundamental problem of lack of accountability to local stakeholders on the part of Network Rail. It is therefore difficult to see how greater scrutiny and, potentially, greater involvement in the development of route plans would, on their own, lead to a more efficient Network Rail.
- 3.21. Some of our members have also expressed concerns that a greater emphasis on route level decision making could have a negative impact on cross-boundary services. They have called for the ORR to specifically consider how cross-boundary decisions should be coordinated and incentivised.
- 3.22. One area that seems to have been largely missed out from the consultation document is station devolution. This is a topic of significant interest to several of our members, and one which we are also actively exploring through the joint work of the Urban Transport Group. At this point, we only wish to flag up the need for the regulatory framework to take account of the possibility that new station ownership and development models may emerge in the course of the Periodic Review. At a practical level, the key enabling factor, from a regulatory point of view, is an improved and detailed understanding of asset condition.

Improving system operation

- 3.23. We agree that greater devolution to routes within Network Rail must be supported and coordinated by an effective overall system operator function.
- 3.24. We also agree that this approach must address not only the efficiency of the system operator but also its effectiveness in supporting the routes to meet the needs of their customers.
- 3.25. We support the inclusion of customer-facing measures in the assessment of the system operator's performance; these need to cover not only timetabling but also the agreement of access rights.
- 3.26. Some of our members have pointed to the need for improved sharing of data on passenger demand and system capacity for timetable planning purposes. There was also a desire for closer collaboration and information sharing between Infrastructure Managers on different parts of the network (e.g.: Crossrail and Network Rail). It is felt that there is reluctance from some TOCs to share demand data and we have previously called on the ORR to review the treatment of data which some industry parties classify as commercially confidential. According to some of our members, this has been an issue even when planning for, and analysing the impact of, disruptions. We would encourage the ORR to consider how

improved data sharing protocols and obligations could be rolled out across the industry as part of the design of the system operator function.

Refining the framework for outputs and how these are monitored

- 3.27. We welcome the ORR's proposal to increase the involvement of train operators and other local stakeholders in setting outputs.
- 3.28. In particular, we believe that there could be a much greater role for city region transport authorities and sub-national bodies in this process as they are typically better placed than either the ORR or DfT to manage Network Rail performance at this level of detail. Greater disaggregation of cost and performance information, including below the route level, would be a particularly useful enabling resource.
- 3.29. There is general support amongst our members for the proposal to improve performance monitoring to better the experience of customers including by taking full account of delays at intermediate stations.
- 3.30. However, there are some reservations about the proposal to take account of the number of passengers on each service as part of performance monitoring. This stems from the idea that this would create a systematic incentive on Network Rail to delay more lightly used services in favour of busier services. As a minimum, believe that any outputs framework would need to take account of the broader economic and social value of a given train service rather than purely the number of passengers.
- 3.31. There is some resistance to the idea that Network Rail could be allowed to flex outputs between routes. The main concern here is that this would create a high degree of uncertainty for train operators.

Increasing transparency around costs and improving incentives

- 3.32. We support the ORR's aim to achieve a better understanding of what drives infrastructure costs. Throughout PR13, we consistently called for greater spatial disaggregation of infrastructure costs and a more cost reflective allocation of these to different parts of the network and to different services. Shifting the focus of regulation to the route-level is a useful first step but we believe that in order to understand infrastructure cost drivers it is necessary to go down to a much finer spatial scale.
- 3.33. Making variable access charges more cost reflective could produce some marginal improvements, even though it is unclear whether this can be done in a cost effective way. More important, in our view, is the need to review the allocation of so-called fixed costs. Whatever the approach taken, it is important that the analysis of variable and fixed costs follows a consistent framework. Variable costs can be high on routes where the basic infrastructure receives little investment, because a greater burden is then placed on maintenance. However, such routes would be expected to attract a lower amount of fixed costs. We have previously shared our work on this topic with the ORR and Network Rail⁴.
- 3.34. We welcome the proposal that Open Access operators should make a contribution to network fixed costs as this would create a more level-playing field.

⁴ pteg (2014), A heavy load to bear - towards a fairer allocation of rail industry costs for regional rail. Available online: <http://www.urbantransportgroup.org/resources/types/reports/heavy-load-bear-towards-fairer-allocation-rail-industry-costs-regional-rail>

3.35. We welcome the ORR's statement in paragraph 4.31 that it "will look for opportunities to simplify or abolish charges that do not deliver sufficient benefits". This is something we have called for as part of our early engagement on PR18, and would suggest that the ORR may consider applying a similar yardstick to incentive and penalty regimes.

Supporting new ways to treat enhancements

- 3.36. We welcome the ORR's proposal for a more flexible approach to the specification of enhancements which would have as its greatest benefit a better alignment between major enhancement, franchising and rolling stock decisions.
- 3.37. But while we can see that there would be advantages in taking larger, strategic enhancement schemes outside the Periodic Review timetable, we don't feel this should necessarily apply to smaller schemes. We believe that there would be benefits from keeping ring-fenced funds for tactical deployment during CP6, based on appropriate governance arrangements which would include relevant train operators and transport authority bodies.
- 3.38. We are supportive of the idea that Network Rail should maintain an up-to-date and comprehensive enhancements delivery plan. This provides a critical foundation on which other parties can develop and implement their own linked plans, including for rolling stock and train services.

ERTMS and related technology

3.39. No views at this point.

4. Developing the high-level framework for the review

4.1. We support the overall approach proposed by ORR.

5. Process and engagement

5.1. In the event that the ORR decides to make use of the Rail Delivery Group's resources to develop some of the work for PR18, we strongly support the principle that these need to be open to the wider stakeholder community. In the past, we have not always been kept abreast of progress with RDG work-streams despite our initial involvement (presumably, because of inconsistencies in mailing lists) and feel that it would be best if communications relating to any stakeholder events continued to be dealt with by the ORR.

Office of Rail Regulation
One Kemble Street
London
WC2B 4AN

12th August 2016

Dear Sir/Madam,

2018 Periodic Review of Network Rail (PR18): Initial Consultation

VTG Rail is the leading full service wagon leasing provider in the UK with some 3,000 wagons on hire to almost all major end-users of railfreight and most FOCs. Ours is a capital intensive business that invests in high value assets that we expect to be in service for a minimum period of 30 years to make our return. Given our 'isolated' network (UK wagons cannot practically operate on the EU mainland and vice versa) the wagon supply market is a delicate balance of supply and demand.

We note that you are proposing to look at potential changes to track access charges, an area that is closely connected with the economics of investment in new wagons and new technology. As you consider possible changes, it is important to take account the impact of these on wagon investment and to ensure that there is a clear and logical framework, with long term certainty and appropriate incentive for innovation, which will encourage us to invest in new and efficient wagons and technologies.

In particular, we would ask you to develop a track access charging system that encourages the development of, and investment in, new wagon technology. Many such technologies eg. anti-slide braking are currently available but there is no financial incentive for us to fit these to wagons because much of the benefit is in reduced track damage and disruption, something that is not recognised in the current track access charging regime.

We thank you for the opportunity to respond to the PR18 Initial Consultation and we would be happy to discuss the above in more detail with you during the upcoming stages of the consultation process.

Yours faithfully

Robert Brook
Managing Director



Joanna Whittington
Chief Executive, Office of Rail and Road

CC: pr18@orr.gsi.gov.uk

05 August 2016

Dear Joanna,

I welcome the opportunity to respond to the initial consultation on the 2018 periodic review of Network Rail.

During the next control period, the Welsh Government will for the first time be managing a devolved Wales and Borders franchise which it has specified and procured. We will also be delivering an ambitious programme of infrastructure works including the south Wales Metro.

It is clear that the regulatory framework to be set out by Periodic Review 18 (PR18) will be of significant importance to us, and I expect PR18 to enhance the role of the Welsh Government in relation to Network Rail's functions, including

- Operations, maintenance and renewals,
- Enhancements funded by the Welsh Government; and
- Enhancements funded in Wales by the Secretary of State, or other funders.

Following the recommendations of the Shaw Report, I welcome the proposals to focus regulation at the route level. Effective and meaningful devolution to routes will need to be supported by appropriate devolution of funding and financial accountability. The proposal to devolve greater responsibility to Network Rail's routes should reflect the pre-existing political devolution landscape. I would therefore like to see an approach which enables Network Rail to be effectively and meaningfully held to account by the Welsh Government in the delivery of safe, efficient operations, maintenance, renewals and enhancements in Wales.

Punctuality and reliability is important to rail passengers and end users, and evidence shows that the Wales Route is overall the least reliable route on the network. Setting a revenue requirement which only preserves the status quo would not be appropriate, and consideration should be given towards a methodology for distributing funding to address recurring issues. Consideration should also be given to how funding and outputs can be best aligned to improve the experience of the passengers and businesses which make use of the network.

I agree certain functions of Network Rail, such as capacity management and timetabling, should be regulated at a central level. However, it will be important to clearly define roles and responsibilities. It will also be important that Network Rail are appropriately incentivised to accommodate additional services on the network.

The future charging regime should not inhibit the ability of the Welsh Government to introduce additional services. We have noted the Department for Transport is considering abolishing the network grant and instead routing this funding through train operators via access charges. It is imperative that the Welsh Government is adequately protected financially from any change in policy along these lines. Additionally, track access charges should not be linked to the costs of infrastructure at route level as this could bring challenges to the operation of some of our more rural routes, which provide vital connectivity for many communities in Wales.

The Welsh Government is committed to support and encourage opportunities for goods to be transported using more environmentally sustainable methods, including by rail. Freight train operators are highly exposed to changes in track access charges, and it is important the charging regime provides stability and continuity for the freight industry.

Financial information derived from ORR reports suggests that, since financial reporting at a route level began in 2011, around 1% of Government funding for enhancements has been spent on within Wales route. This historic underspend within the Welsh network needs to be addressed, and the Welsh Government has called for a fair share of funding for the network in Wales, including a ring-fenced fund to be made available for the Wales Route within CP6. We would like to work with the ORR to consider how this could be achieved, particularly in light of the likely changes to the specification of enhancements in the future.

Despite rail infrastructure remaining the responsibility of the UK Government, in the absence of sufficient enhancement investment in the Welsh Route, the Welsh Government has stepped in to fund, or part-fund, projects which we consider a priority. However, in doing so we have encountered problems with Network Rail in delivering enhancements, and where rail infrastructure improvements have been undertaken through our contractors, projects have been delivered more successfully. It is also a concern that Network Rail seems to have relatively poor asset condition knowledge. We would like to be able to fund enhancements without being considered a third party funder in the future. I would welcome development of these areas as part of this periodic review.

Yours sincerely,



Ken Skates AC/AM

Ysgrifennydd y Cabinet dros yr Economi a'r Seilwaith
Cabinet Secretary for Economy and Infrastructure



Office of Rail and Road
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8th August 2016

Dear Sir/Madam,

Periodic Review 2018 (PR18) – Initial Consultation (May 2016)

Thank you for the opportunity to respond to the ORR's consultation - Periodic Review 2018 (PR18) initial consultation. Detailed below is West Coast Trains Limited ("Virgin Trains") formal response.

This periodic review takes place against a backdrop of further economic uncertainty and mid-way through the Governments manifesto which rolls out greater local powers under its plans for 'Regional Devolution'. In order to respond to this change the industry has undergone a number of intrusive deep-dive reviews, the most recent being; the Hendy review on 'Deliverability and Affordability for Enhancements' and, the Shaw report on 'The future shape and financing of Network Rail'. The recommendations suggested in these reports will set the foundation and parameters to launch this price review. It is acknowledged that deploying such will bring the biggest financial and governance reshaping of the railway infrastructure provider since the demise of Railtrack.

In the second quarter of Control Period 5 (CP5) there has been increasing doubts as to Network Rail's ability to efficiently deliver major infrastructure interventions¹ on time and within budget. We believe this consultation provides the optimal opportunity for train operators and stakeholders to contribute towards reshaping Network Rail's output and governing arrangements in order to meet the challenges and efficiency improvements it needs to make over the coming years.

¹ Control Period 5 (CP5) enhancements programme and major renewals volumes

Whilst the focus of PR18 should remain on Network Rail's Operations, Maintenance and Renewal (OMR) activity, there is also a need for greater governing control from within the industry but exogenous to Network Rail; for example, seeking certainty that OMR volumes and/or enhancements are delivered efficiently, against plan and with minimal disruption to the travelling public. It is our strong suggestion that a 'star chamber' approach is taken which ultimately governs Network Rail's outputs, direction of funding and authorises any change control at a local level; basically a process that is more rigorous than in CP5 and one which involves the train operator.

We welcome the ORR's proposals for the PR18 and early engagements with the industry for this process. We look forward to working with the ORR and the rest of the industry to take this workstream forward. It should also be acknowledged that our response is aligned, and supports the comments expressed by our partnering owning group (Stagecoach) and those made by the Rail Delivery Group (RDG).

Our more detail response to the specific questions posed by the ORR is set out in Annex A attached.

Yours sincerely



Darren Horley

Commercial Operations Manager

Virgin Trains (West Coast)

Context for the Review

Q1: Do stakeholders agree the main issues and opportunities that ORR considers set the context for the next periodic review or are there any other significant points? If so how might they affect the review?

We agree with the five priority areas identified by ORR in its consultation document and RDG's structured working groups to address each area. Despite the significant workload attending all these work-streams, we provide best endeavours to actively participate in the following:

1. Focus on regulating at a route-level.
2. Improve the regulation of system operator.
3. Support new ways to treat enhancements.
4. Increase transparency around costs and improve incentives.
5. Refine the framework for outputs.

It is widely recognised that Network Rail has not succeeded in achieving the efficiencies and outputs that it set out to with the funds it has available in CP5. It is the belief of some industry partners that this failure is partly driven by areas of misaligned efficiencies and the ORR taking a rigid approach in its governance. Going forward, it is important that the PR18 funding allocation and ORR's defined outputs are sufficiently agile to respond and support the changes in economic landscape and anticipated structural changes recommended in the coming years - as recommended in the Shaw report.

Network Rail is to undergo major organisational change as full devolution is rolled out nationally. It is imperative that these changes do not disrupt franchise commitments nor Network Rail's role and ability to perform as system operator; equally the levels of spend allocated to Network Rail for renewals and enhancements is not jeopardised by these changes. It should not be forgotten that Network Rail's overall performance has a consequential impact on the train operator and their customers. This in mind, we must still maintain a 'watchful eye' on managing the network as a whole as a Network Rail route may well impact on the performance and operational capability of another Network Rail route.

It is noted that Network Rail is planning to raise capital through the sale of network assets. It will be critical that authoritative governing arrangements with a strict business appraisal will underpin this process; moreover, the process must involve the direct users of the asset. This will ensure all subsequent impacts can be accounted for; for example, future access charges

to train operators. If suitable governing arrangements are not put in place, it will quickly become a crude solution to fixing short term funding constraints; all of which will have long term ramifications for the wider industry.

Focus on the most impact for passenger and freight customers

Q1: What do stakeholders think of the proposed priorities?

We support the priorities selected by ORR as these are the prime topic areas that need to be updated in readiness for CP6. However, these can't be tackled in isolation as stronger focus on one area may adversely impact on another; therefore, a consistent and holistic approach is needed to ensure a robust conclusion is reached.

The industry continues to wrestle with the trade-off between capacity and performance, the quicker a suitable measure is established the sooner a strategy can be developed. This is becoming more critical as the network becomes more congested by traffic growth; it's anticipated that funding will be more constrained in CP6 than it was in CP5. This is a core area that the industry needs to jointly address. Having said that, better utilisation of the network is dependent on the efficient delivery of tactical enhancements; for example, minor line speed improvements using the Network Rail Discretionary Fund (NRDF). There were some key successes in late CP3 and throughout CP4; however, during CP5 there has been very little success. In some quarters CP5 has been labelled a debacle. The success in CP3 and CP4 were achieved by robust business case development, smart decision making and timely delivery; we need to learn lessons from history if the industry is to cater for ongoing growth of passenger and freight services with less funding.

We understand that detailed impact assessments are required to inform the thinking on which changes to make and how quickly they might be implemented. It is noted that the ORR may only be able to make limited progress during PR18 with further progress after that. However, the industry will continue to change over the coming years; reform will continue, and the ORR should move quickly but with care to make as many improvements as possible within PR18.

ORR Proposed approach to the review

Q1: Do you agree with the overall approach? Comments are welcome around each of the aims and objective areas, route level regulation; system operation; outputs & monitoring; charges & incentives; approaches for enhancements; and ERTMS and related technology.

In regards to 'Route' level regulation; we support the proposal that Network Rail will submit route based business plans. Adopting this approach provides an element of transparency and a tool to benchmark the performance of individual routes; more importantly enable the train

operator to set expected outputs and measures via the proposed route scorecard(s) mechanism. However, we seek that the ORR provides an intrusive assessment of the individual business plans to certify they demonstrate sound business justification, are deliverable, are consistent in their approach and have involved the users (train operators).

The use of scorecards may well be a useful management tool for providing data and information, but there needs to be strong 'Regulation' and 'Enforcement' underpinning outputs; especially during periods when things are not being managed effectively. If we want to continue making improvements to achieve better use of the current network and progress on efficiency, the ORR needs to take a stronger leadership role to ensure accountability is reinforced by holding Network Rail accountable for their actions. We do not support ORR's approach to fining Network Rail for non delivery against its targets; an alternate approach is needed.

The concept of System Operation is widely supported as this provides Network Rail with some direction; however, the specified outputs need to be carefully tailored towards delivering the right common outputs for the industry. Again we expect these to be captured via the scorecard process of which the train operator will take an active role in shaping and governing the outputs.

Increasing transparency surrounding network cost is a positive step forward, as long as the information provided is meaningful and not diluted by 'smoke and mirrors'. The train operator, or 'primary user', having greater visibility and access to reliable information can add benefit, but only if the primary user has levels of autonomy in the decision making process to prioritise capital towards the right infrastructure intervention.

A better incentive to ensure we 'do the right thing' by our customers is needed. We believe that the possessions regime needs to better reflect the needs of end-users in terms of notice periods, length (in time) of RoUs, the number of end-users impacted and alternative service options. Having said that, the access charges and incentives centring upon possessions and performance should be maintained as simple as possible. We acknowledge that the pre-determined formulae is derived to broadly cover circumstances surrounding most 'typical' possessions and 85 per cent of this remains appropriate. However, some contractual mechanisms need updating to reflect today's railway as the existing mechanisms in some areas are not fit for purpose. The primary areas that need addressing include, but are not limited to, the following:

- a) Sustained Poor Performance should be a liquidated damages regime. The industry agrees that proving 'actual' revenue loss generates significant legal cost and a waste of management time.
- b) ROU Cancellation – Presently Network Rail can cancel a RoU at short notice, only incurring the costs it's committed or spent. We believe there should be a 4th Notification Factor that penalises Network Rail for cancelling possessions under seven days notice.
- c) Industrial action – An interCity type train operator loses revenue from industrial action taken or threatened by Network Rail employees. There needs to be a simple revenue mechanism to compensate the train operator in these circumstances.

Some of these are risks which are best managed by Network Rail, but Network Rail needs to be incentivised to manage these risks appropriately. Train operators should not be financially penalised or put in jeopardy for doing the right thing for customers in such circumstances. Whilst there are a number of solutions to address the areas highlighted above, we would like the ORR to respond to this inefficiency in its PR18 process.

Enhancement development and delivery, lessons need to be learnt from CP4 and CP5. There is a need for better, more effective planning, much improved decision making and better financial controls if enhancements are to be delivered to match growth rates. It is not acceptable to the train operators or our customers that Network Rail can take over 4 years to develop a line speed improvement scheme and then take a further year to deliver such. Funding, planning and delivery of enhancements need to be much sharper if we are to meet the challenges of continued growth with constrained funding availability.

We welcome appropriate funding of enhancements from outside parties, something that Network Rail was successful at in towards the last quarter of CP3 and throughout CP4 but again has lost momentum in CP5. This is evident in some regional areas as funding for rail related transport enhancement (established by Local Enterprise Partnerships) and monies available under Section 106 have been redirected towards road related schemes. One of the issues deterring third party investors is the artificial arrangements imposed by trying to fit the development and delivery of larger schemes into a 5 year control period. Enhancements are long term and may straddle more than one control period. In most cases, they need to align major schemes with franchise timescales and rolling stock and depots strategies, which should be treated differently.

Developing the high level framework for the review

Q1: Views on the potential framework? What could be achieved in PR18? What may be achieved in subsequent periodic review?

Working with all industry partners on the implementation of the framework is essential at a very early stage. The framework is useful for monitoring Network Rail's outputs both at a Systems Operations level and at route level. However, it is unclear how the accountability element is managed.

Certainly, there should be TO C engagement when developing route business plans. As previously highlighted above, this will encourage increased transparency around costs and outputs and allow TOCs to ensure their customers' needs are reflected in route business plans.

Q2: Ideas on how ORR may improve how they regulate NR?

Discussions surrounding this topic are ongoing through the established RDG work-streams. However, we encourage the ORR to engage with the train operator in its consideration on how to regulate Network Rail, how they are held accountable and what enforcement is applied to ensure Network Rail delivers on their commitments.

Process and engagement

Q1: Are the phases and timeline of the review right?

Some cognisance should be given to the franchise renewal programme using the industry's Rail Franchising Schedule and whether Network Rail has the resources to manage the implementation of PR18 and any input into the franchise process between summer 2018 and March 2019.

Q2: High level views on customer engagement by NR routes and the system operator to inform business plans?

The LNW Route has given assurances their route plan will be shared with us for review before it has been formally submitted.

Q3: How would NR and train operators like to be engaged with the implementation process?

Whilst we anticipate that engagement will be developed constantly throughout the PR18 process, such engagement should be mindful of the limited availability of TOC resources. A comprehensive programme for the PR18 should take into consideration how the industry and

wider stakeholders should be informed particularly of the development on each of the proposals and their associated consultations on the specific topics. It will be pertinent to have regular updates by the ORR on key high level milestones so that we are informed when key decisions are required.

Safety

The industry suicide prevention work-stream has been effective during CP5 and we support the continuation of this strategy through a dedicated suicide prevention improvement fund in CP6. Level crossings and appropriate fencing at stations and sidings remain an area of significant opportunity to reduce suicide and trespass risk; however, we seek the ORR grant greater autonomy to the train operator to determine where funding should be prioritised.

Open Access Operations

This has been an ongoing topic during PR08 and PR13. Whilst we support open access competition, we ask the ORR gives consideration to whether some open access operations should make a greater contribution to network costs.

End

8th August 2016

Response to ORR's initial consultation on the 2018 periodic review of Network Rail (PR18)

This pro-forma is available to those that wish to use it to respond to our consultation. Other forms of response (e.g. letter format) are equally welcome.

Please send your response to pr18@orr.gsi.gov.uk by **10 August 2016**.

Full name	James White
Job title	Transport and Rail Co-ordinator
Organisation	West of England Local Enterprise Partnership
Email*	
Telephone number*	

*This information will not be published on our website.

Chapter 2: Context for the review

We invite stakeholders to comment on whether they agree with our view of the context for PR18 or whether they consider there are additional significant points. (If the latter, please explain how these might affect the review).

The West of England, made up of the four local authorities of Bath & North East Somerset, Bristol City, North Somerset and South Gloucestershire, are investing over £100m in the local rail network as part of the MetroWest project.

If the ORR wishes to see an increased diversity of funders in Network Rail, like that for MetroWest, then Network Rail must make itself more attractive to investors through improving delivery times, reducing costs and ensuring greater value for money. More robust, accurate and reliable costs estimates at an early stage of a rail project will provide investors with greater confidence that costs can be managed and not left to spiral once the project is well underway.

Network Rail need to explicitly recognise that third party investors are contributing towards the betterment of the rail network. This should be taken into account when Network Rail seeks outside funds and adjustments to the size of the investment made accordingly. MetroWest Phase 1 for example will see freight trains on the Portbury line benefiting from higher running speeds, modern signalling and greater capacity as a result of the upgrading to carry passenger trains. Yet these enhancements are entirely funded by the West of England local authorities. Bearing the whole cost is not an incentive to invest. If Network Rail were to contribute towards betterment then this would open the door to an increased diversity of funders.

Whilst it is important to get the most out of the existing network (2.17 and 3.18) how much more can be realistically achieved given this has been the main ethos of Network Rail since at least the first Route Utilisation Strategies? See the response to Chapter 3 below on historic growth levels in the West of England and the need to meet current and future demand.

Chapter 3: Focusing the review where it can have most impact for passengers and freight customers

We welcome views on the proposed relative priorities for the review, as well as any other areas that should be prioritised (in which case, we would particularly value views on what should not be prioritised as a consequence).

From Figure 3.1 priorities for the West of England are a network that is 'Expanded effectively' and 'Better used' and 'More efficient.' For the latter 'taking cost effective decisions on operating, maintaining and renewing the network' should be expanded to include enhancements. Improving safety should be seen as prerequisite and not subject to being prioritized.

Over the last 10 years the West of England has seen impressive growth in rail passenger numbers. From the Office of Rail and Road's own figures passengers have grown by 84% since 2004/05. On the Severn Beach Line the figure is 242%. Our annual West of England Rail Survey which counts all passengers, not just ticket sales, shows higher growth at 93% across all local stations and 248% on the Severn Beach Line. Given this historic growth and how the network has struggled to cope with it getting the most out of existing infrastructure (3.18 and 2.17) is unlikely to meet future demand. Increased capacity must be planned for. We are greatly concerned at statements in the Periodic Review such as no new enhancement schemes (6.22) and tough choices (Summary p4).

MetroWest demonstrates how the West of England has had to pick up on, lead and fund investment in the local rail network in response to growth and demands for more rail services. Indeed Network Rail has acknowledged in the Western Route Study that the extra capacity provided by MetroWest is needed to meet demand for 2023. The West of England is fully committed to and proud to be delivering MetroWest with Network Rail but it should not just be left to local authorities to lead on and fund all local investment. The priority for the ORR and Network Rail should be to establish investment partnerships that are co-operative and responsive to local needs.

As a soon to be mayoral Combined Authority we are the right body and are keen to be involved in proposals for the devolution of transport decision making to regional funders and the opportunities presented by the devolution of responsibilities to Network Rail's routes (3.24).

Chapter 4: Our proposed approach to the review

We would like to know if you agree with the overall approach that we have set out for the review.

We would also welcome additional suggestions and proposals for how we might adapt our regulation to the current context. It would be helpful if you could arrange your comments around the headings in the chapter (set out below) where these are relevant to your response.

Route-level regulation

Allowing different routes to take different approaches (4.6) raises the question as to how one route's performance can be compared with another if the ORR is not comparing like with like.

We welcome the proposal for greater involvement by stakeholders in informing route plans and

their scrutiny with increased transparency.

System operation

No comment.

Outputs & monitoring

The use of scorecards (4.7) runs the risk of routes spending too much time chasing arbitrary scores to nominally meet ORR requirements rather than actually deliver on the ground.

Charges & incentives

No comment.

Approaches for enhancements

We just wish to reiterate the point made in the response to Chapter 2 regarding Network Rail contributing towards the betterment of the rail network arising from third party investments.

ERTMS and related technology

No comment.

Chapter 5: Developing the high-level framework for the review

We welcome views on how our high-level approach could be implemented and on the potential framework set out in chapter 5. As part of this, we invite thoughts on what it is practicable to achieve in PR18 and in CP6, and what might be more realistic to achieve in the subsequent periodic review.¹

We would also welcome any further suggestions and ideas on how we might improve how we regulate Network Rail.

The route based approach with a financial settlement for each route is welcomed and as proposed this must come with protection against risk and a financial buffer through a central route reserve (5.28). The impact of flooding in 2014 on the Somerset Levels between Bristol and Taunton, Chipping Sodbury Tunnel and further to the West Dawlish Warren are cases in point where additional funding was required to provide resilience.

The route based approach needs to take full account of what is happening along the routes. For the West of England we have an emerging Joint Spatial Plan which is forecasting 85,000 new homes and 88,000 new jobs to 2036. Much of this growth will be close to MetroWest and existing rail services. Traditionally the rail industry has been slow to pick up on local growth or seriously underestimated it. The new route based approach offers the opportunity to tie the two together.

As the Periodic Review points out the borrowing limits are the most important financial issue affecting Network Rail in CP6 (5.17). We are greatly concerned, however, that this will greatly constrain Network Rail's ability to deliver the enhancements required to meet current and future demand. Consideration should, therefore, be given to relaxing Network Rail's borrowing limits

¹ You may also wish to read and comment separately on the working papers that we will publish following this consultation document.

to ensure projects are delivered.

Chapter 6: Process and engagement

We would be grateful for comments on the proposed phases of the review, including any views on the [draft timetable](#) and our proposed approach to engagement.

We also invite high-level views on the process for customer engagement by Network Rail's routes and the system operator to inform their business plans, in terms of what is achievable for this review.

We would also welcome any views on how Network Rail and train operators would like to engage and be involved in the implementation process for PR18 and any thoughts on the process relating to Network Rail's right to object to our determination.

Making greater use of and discussing working papers with stakeholders (6.12) such as the West of England Combined Authority is welcome.

As proposed (6.15) the Railway Development Group should be opened up to other parties and in particular the new mayoral Combined Authorities such as the West of England. Combined Authorities should also be included under engagement with regional bodies in section 6.24.

Any other points that you would like to make

Thank you for taking the time to respond.

Response to ORR’s initial consultation on the 2018 periodic review of Network Rail (PR18)

This pro-forma is available to those that wish to use it to respond to our consultation. Other forms of response (e.g. letter format) are equally welcome.

Please send your response to pr18@orr.gsi.gov.uk by **10 August 2016**.

Full name	John Morris
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Organisation	WSP Parsons Brinckerhoff Ltd
Email*	
Telephone number*	

*This information will not be published on our website.

Chapter 2: Context for the review

We invite stakeholders to comment on whether they agree with our view of the context for PR18 or whether they consider there are additional significant points. (If the latter, please explain how these might affect the review).

The ORR should re-prioritise the PR18 review and specifically include the area of on-board safety and comfort. Network Rail is failing to consider passenger comfort levels and the on-board safety aspects of the travelling public (and catering staff) and has introduced altered asset management strategies which will have a detrimental effect on both of these areas. See more detail given in the Appendix below. We believe this is an example of Network Rail acting as an infrastructure system operator, not a whole railway system operator, a point we will make again in this submission

Rail passengers are not only concerned with a safe, reliable and efficient railway, they also want to see value for money. This is not only in terms of the fare that they pay but how the investment to the rail infrastructure is made. There needs to be focus on how we, as an industry, can engage passenger focus groups better and be more transparent in how the investment is being made.

The reclassification of Network Rail led to confusion within the public and fare paying passengers and it has not helped the industry with high profile projects cancelled, then deferred and then re-engaged. There needs to be greater clarity on how the projects and investment will align with economic strategy; projects that are now seen as crucial to the Northern Powerhouse were previously seen as surplus to requirements. There needs to be clearer joined up thinking in the context of the review to present the rail industry as central to the economic effort of the UK, in terms of moving human capital to profit centres.

The route operation model has not and will not continue to deliver value for money. Devolution needs to align better to governmental devolution, whereby transport budgets can be better spent geographically for the railways. The route operational model allowed devolution and for each route to focus on one, two or all three operational targets. This meant that the focus was

different for each route and that made it harder for the supply chain to deliver value and transpose lessons learnt and repeatable tasks, processes and procedures.

Wherever possible Devolution should be used to correct the imbalance between London/SE and the rest of country in transport spend per head. In addressing the regulation of the devolved Network Rail, ORR should put structures in place to balance the benefits of devolution with the negative impact of absence of centralised strategic thinking. We strongly support the 'system operator' concept, but note that given Network Rail's role, it is solely an *infrastructure* system operator, not a *whole railway system* operator. That role is currently not fulfilled, and this is an omission in our view, and represents a weakness in the structure of UK Rail.

Furthermore, the devolution proposals, and the system operator and technical strategy concepts do not, we believe go far enough to address the Network Rail problem of its being very utilitarian and transactional in its approach, and poor at strategic thinking and decision making.

The rail industry is not incentivised and does not have a clear incentivisation strategy in its procurement and execution of contracts. It continues to operate with a traditional contracting model and fails to exploit synergies.

The term Digital Railway continues to espouse ERTMS and Signalling operations. It fails to recognise the wider digital elements of the railway and therefore it does not attract inward investment nor does it truly exploit its supply chain potential.

The ORR has repeatedly failed to acknowledge that HS2 and NR will become competing employers and that the already widely understood skills shortage will leave the UK rail infrastructure widely exposed to its world class reputation. There is no apparent strong strategy that will address how CP6 onwards will be delivered with the anticipated migration to HS2 and the apparent less bureaucratic approach to engineering.

One further aspect that could be taken into account is the impact that security and cyber-security needs to play on the railway. Is Network Rail doing enough to protect passengers and staff from the modern day threat of terrorism, and the protection of systems from cyber threats that could massively impact all stakeholders and could result in tragedy?

Chapter 3: Focusing the review where it can have most impact for passengers and freight customers

We welcome views on the proposed relative priorities for the review, as well as any other areas that should be prioritised (in which case, we would particularly value views on what should not be prioritised as a consequence).

The report fails to openly address the overcrowding issues that blight passenger satisfaction.

The network is already operating at capacity in terms of trains occupying train paths and at peak times trains to and from major profit centres are already oversubscribed. There is actually no credible way of improving the network in terms of better usage unless there is a shift towards digital train control, which will allow reduced headways and more services to operate.

The drive for increased capacity and greater use of existing capacity should go beyond the metric of train capacity and look at passenger carrying/moving capacity as well (for example. the capacity of a route to accommodate fast and semi fast trains does not acknowledge the

failure to serve intermediate stations by stopping services).

The ability of Network Rail to deliver 'agreed projects' has been hampered by poor specification of what is actually 'agreed'. There is an argument for removing GRIP stages 0-1-2 (and some of 3) decision-making from Network Rail – it is clearly it is not particularly good at this.

'Specifying' (sections 3.8 and 3.9) is not Network Rail's best strength, they are good at delivery.

Section 3.24 refers to stakeholder involvement in decisions affecting current and future customers, but this should not be allowed to be subverted such that it is driven by the interest of operational convenience (train and infrastructure) rather than by the interests of those customers.

Chapter 4: Our proposed approach to the review

We would like to know if you agree with the overall approach that we have set out for the review.

We would also welcome additional suggestions and proposals for how we might adapt our regulation to the current context. It would be helpful if you could arrange your comments around the headings in the chapter (set out below) where these are relevant to your response.

The focus on route regulation will drive internal competition and value for money will not be achieved. Business plans are simply an indicative approach and they are expected to be subject to change throughout their lifetime to meet changing internal and external market demands.

Benchmark data will further drive internal competition and it will lead to synergies not being identified, resources not being shared and lessons learned becoming an inward looking activity.

Incentives need to be driven through contracting mechanisms and not through management focus. The latter just makes the whole relationship transactional whereas contractual incentivisation leads to collaboration and sharing best practice; everyone shares the benefits.

The reasons why railway projects fail is already known within the industry (research proves this). A lack of planning and foresight at the outset with programmes not optimising their projects results in a supply chain unable to adequately recruit to meet demand or skills required. In general, the industry prevents suppliers from establishing delivery teams, enhancing them and passing on lessons learned freely between routes. Indeed the parochial nature of the rail devolution means that if companies are not present or have not delivered in the geographical route, they are unlikely to not be awarded any work.

Route-level regulation

This is damaging to the railway as it breaks the railway up in to P&L sectors and drives a competitive market mentality. It also assumes that there are clear demarcation boundaries but some engineering and operational functions cannot respect this. Operationally the TOCs and FOCs will be exposed to an infrastructure of varying degrees of investment and outputs of reliability.

There appears to be opportunity for inefficiency in the layers of the reviewers in the devolved system. With decisions made by NR at route level, reviewed centrally, reviewed by ORR and

potentially reviewed by Government now that it is a public sector organisation. The ORR review needs to ensure that this inefficiency cannot materialise.

System operation

We support the regulation proposals for the 'system operation' function, noting our comment above (i.e. it is solely an *infrastructure* system operator, not a *whole railway system* operator).

In applying metric to Network Rail performance, as capacity is a priority issue, we believe it would be interesting and useful to develop an informative metric for available capacity of a route.

Outputs & monitoring

We support the increasing involvement of operators and other stakeholders, as long as the consideration of needs of existing and future customers is paramount, and does not formalise the prioritisation of operational convenience over customer needs.

The passenger experience should also include comfort and on board safety, as mentioned above and in appendix.

Charges & incentives

Charges have also had an air of smoke and mirrors; they are not transparent and it is too easy to make a claim and then not reimburse all affected passengers – essentially this becomes a profit making mechanism for the TOC. It needs to be removed, with claims made yearly by the TOCs for compensation they have actually paid out for infrastructure related delays.

Incentivisation needs to be driven in contracts and needs a win-win focus.

Approaches for enhancements

Enhancements need to be driven by the TOCs and FOCs in the sense of planning with a clear focus on incentives to handback early.

PR13 enhancements problem is partly caused in part by poor specification and concept development. We believe there is a vacuum between the high level DfT 'specification' and the highly transactional Network Rail delivery approach. Currently this sits in the Network Rail Grip 0-1-2 space, which we believe Network Rail is poorly set up to handle

We agree with the proposal to align franchising and rolling stock decisions with enhancements, it would be crazy not to, it is a railway *system* after all.

Make sure that the Network Rail ensures early GRIP Stages are completed fully and that any gaps are understood before proceeding to investment authority GRIP 3-8, and that the enhancements plans are fully aligned to the High level and Route Outputs.

Properly consider the impact of HS2 on the enhancements plans for Network Rail

ERTMS and related technology

There needs to be greater clarity in this area.

It is not clear why Digital Railway needs special treatment here, it is just a means by which Network Rail will deliver some of the priority items already identified, just a lot more expensive, unless there is already a concern that Network Rail is ill-equipped to handle this effectively?

The ORR must test the assumptions within the Industry Plan and the Network Rail Delivery Plans regarding Technology Readiness Levels (TRLs) for different systems. The programme for realising the benefits of ERTMS and ETCS will only work if the TOCs and FOCs are bought into the programme for on-train fitment, which will reduce the availability of their fleets and this

need to be aligned to the Network Rail infrastructure works programme.

Chapter 5: Developing the high-level framework for the review

We welcome views on how our high-level approach could be implemented and on the potential framework set out in chapter 5. As part of this, we invite thoughts on what it is practicable to achieve in PR18 and in CP6, and what might be more realistic to achieve in the subsequent periodic review.¹

We would also welcome any further suggestions and ideas on how we might improve how we regulate Network Rail.

We would suggest a review of Network Rail's competence and capability as an organisation and how they can improve, as they have clearly become unstable, driven by bureaucracy and process that is not aligned. We would suggest redesigning the GRIP process to make it more performance led with clearer KPIs and make it easier to engage the supply chain to import value. We'd also look at how HS2 is being regulated and perhaps align with that model.

Revenue needs to be driven from the TOCs and through the franchises. There needs to be more private inward investment from councils (inter-alia) who want to improve the profit centre and greater focus needs to be on transport integration not just rail; integrated transport authorities could actually remove the national model.

The process of how ORR regulates Network Rail needs to reflect how Network Rail will work post devolution. Route based regulation is not the whole answer, and the role of Network Rail as System Operator needs to be established before ORR can determine the basis of how Network Rail is properly regulated alongside the routes

Chapter 6: Process and engagement

We would be grateful for comments on the proposed phases of the review, including any views on the [draft timetable](#) and our proposed approach to engagement.

We also invite high-level views on the process for customer engagement by Network Rail's routes and the system operator to inform their business plans, in terms of what is achievable for this review.

We would also welcome any views on how Network Rail and train operators would like to engage and be involved in the implementation process for PR18 and any thoughts on the process relating to Network Rail's right to object to our determination.

¹ You may also wish to read and comment separately on the working papers that we will publish following this consultation document.

ORR engagement needs to be wide ranging.

The process of engagement with the supply chain needs to be more transparent. Whilst RIA and RDG may represent the interest of the UK supply chain, many Tier 2 and Tier 3 suppliers need a voice.

With the reclassification of Network Rail as a public sector body, it is anticipated that Network Rail will need to work with Government and other funders to address additional sources of funding, so these sources of funding out with the State of Funds Available (SoFa), need to be established quickly. The ORR may wish to engage with other financial institutions as part of the process of reaching a robust determination.

We believe that consultation should include PTEs since there could be lessons learned from that sector on how to approach governance differently

Network Rail needs to demonstrate how they will deliver the agreed Outputs. The High Level Output Statement (HLOS) will need to reflect the proposed disaggregation of the routes for CP6 and what performance metrics will be used to monitor compliance covering performance, safety, capacity, environment, sustainability, customer satisfaction, financial efficiency.

If the amount of public support to the Railway as a whole is likely to reduce, then the impact of this needs to be reflected in the HLOS

If the process is open and transparent, then the determination should not be challenged. If there are significant changes proposed in the HLOS and SoFA which could affect safety and performance then these will have to be properly risk assessed and the impacts fully understood

Any other points that you would like to make

The impact of Brexit clearly needs to be addressed - many enhancement projects rely on a source of EU funding which may not be available for projects starting in CP6.

How are the plans for Digital Railway being addressed – the funding requirements for this work in CP6 could be significant, and the quantified performance/outputs are as yet unclear?

What are the plans for continuation of the National Electrification Programme into CP6 - Cardiff to Swansea, Midland Main Line (MML)?

We need to radically overhaul the way in which Network Rail procures and executes its contracts. It is too transactional and does not promote collaboration with the supply chain.

Thank you for taking the time to respond.

Appendix, further info in support of comments to section 3

Passenger comfort

The ORR sets out the proposed priorities for their review of Network Rail, as guided by their statutory duties, resources limits and the time available to stakeholders and to ORR.

These priorities are intended to reflect the Regulator's position and ability to make a difference to the interests of passengers and freight customers, either directly or by facilitating change or action by others where risks are high and need to be managed to sustain current successes.

The ORR notes six high-level outcomes relating to what Network Rail delivers, and which the review could support in Figure 3.1. At least two of these priorities include topics of efficiency and safety but there is evidence that there is a drive to reduce costs without fully considering the safety aspects of revised asset stewardship strategies.

Historically, railway curves were designed with the outer rail on curved track raised to counteract the centrifugal force due to speed and curvature and maintain the vehicles in equilibrium. It was acknowledged that if less super-elevation (cant) was applied compared to that calculated to maintain vehicle equilibrium (i.e. with some amount of cant deficiency) the residual centrifugal force aided steering.

As train speeds increased, limiting values were applied to maintain passenger comfort levels and reduce the risk of vehicle derailment. For example, the "Normal" design limit on cant deficiency was set at 73% of the applied cant for continuously welded track (CWR). Exceptionally, cant deficiency could be increased to 100% of applied cant for CWR track but further approval was required from Network Rail's Head of Engineering for proposed values of cant deficiency in excess of applied cant.

The broken rail attributed as the cause of the Hatfield train crash in October 2000 brought rail Rolling Contact Fatigue (RCF) to the attention of the rail industry and to the travelling public. What was unusual about this particular rail break was the apparent disintegration of the rail due to the presence of numerous cracks in the rail / wheel contact area. The immediate response involved numerous temporary speed restrictions and emergency rail replacements, resulting in many delays and cancellations which brought the entire network to the brink of collapse.

To improve their understanding and to better manage the issues involved in Rolling Contact Fatigue (RCF), Network Rail carried out in-house modelling and reviewed the findings of national and international rail research. Network Rail's interpretation of this research is that the rate of growth of RCF can be reduced significantly by increasing the cant deficiency on curves and that the effect will be greatest in curves in the 1000 m to 2500 m radius range. In addition, Network Rail recognises that although the reduction in RCF is less significant in tighter curves rail sidewear can be reduced with increased levels of cant deficiency.

However, the research and modelling does not take account of decreased levels of passenger comfort due to reduced values of applied cant or considers the safety implications of increased centrifugal forces. Instead, the current focus is on asset management; reducing rail degradation and driving down whole life costs. No consideration is given to the detrimental effects on passenger and staff movements on board moving trains due to the increased levels of cant deficiency or how this might affect standing passengers on busier services.

In consequence, Network Rail's response is focussed on addressing the severity of RCF and reducing the number of maintenance interventions needed to maintain rail integrity and reduce whole life costs. This strategy is evidenced by the recently implemented changes in design guidance regarding the amount of cant to be applied and the new approach appears to be one

of maximising cant deficiency wherever possible.

For example, Network Rail's latest issues of Company Standards (NR/L2/TRK/2102 "Design and construction of track" and NR/L3/TRK/2049 "Track Design Handbook") contain revised guidance for track designers in terms of the amount of cant to be applied. Current guidance to track designers is that applied cant should consider the actual speed of trains and in certain circumstances should be applied based on the average speed of trains at certain locations. The example shown in Clause 6.2 of NR/L3/TRK/2049 describes the result of the revised approach to cant deficiency when designing track adjacent to curved station platforms. Using the parameters given in the worked example results in the application of 25 mm cant with a cant deficiency of 97 mm for the highest speed passenger traffic and 55 mm for freight. Assuming that the guidance given elsewhere is followed - and the appropriate Network Rail sign-off is given - the justification is given that this is simply *"optimising the figures and therefore reducing maintenance"*.

While the attempt to reduce whole life costs and better manage the RCF problem may be well – intentioned, it is important that the ORR are aware of any changes to Network Rail's asset management strategy and consider what regulation may be needed to mitigate the consequential effects on other stakeholders.

The ORR should re-prioritise the PR18 review and specifically include the area of on-board safety and comfort to ensure that Network Rail's altered asset management strategies do not solve one safety issue and create another.