Responses to consultation possible measures of the System Operator's performance

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Office of Road and Rail
One Kemble Street
London

Date   18 September 2017

Reference: Abellio UKs Response to the Consultation on Proposed System Operator Measures and Regulation of Network Rail

Introduction

This submission provides a specific Abellio UK response to the above consultation. The System Operator (SO) plays a pivotal role to allow TOCs to meet their franchise targets. Abellio UK welcomes the opportunity to provide further input to shape the regulatory regime in CP6 for the SO alongside that submitted by the RDG. We agree and support both the RDG and ORR's expectation that: "industry will increasingly rely on a SO that is proactive, transparent, evidence-based and independent and impartial of any particular interests to help them deliver for passengers and freight customers".

Abellio UK Approach

In our approach to this consultation we have not attempted to respond to specific questions set out by the proforma return; we have instead set out our key priorities which should be considered along with the RDG's response to the SO operator measures and the wider regulation of Network Rail.

Our Key Priorities from the Consultation Documents

These are as follows:

1. **SO Measures – clearly defined priorities and terms of reference**

    - We would like to see a defined and clarified Terms of Reference for the SO in the final documentation. This should clearly set out priorities, goals and system outputs for the SO along with balanced KPIs that are carefully aligned to Owning Group and TOC franchise requirements. Consideration should also be given to the prioritisation of measures within the scorecard to ensure that the priorities of customers and clients are appropriately weighted. Network Rail needs to manage the long term sustainability of the network to ensure delivery of safe, reliable, affordable infrastructure for future users of the railway. This should be recognised in the overall

assessment of the SO's approach to both supporting the railway and managing its business in a sustainable railway.

- In line with the RDGs response to SO measures, we would also like to emphasise the point that the SO should be facilitating optimisation of the network in order to deliver a growth in output through improved journey times, increased track capacity and optimised costs. This will require innovative solutions and the ORR should ensure that measures and Terms of Reference are geared towards the delivery of these improvements by the SO. Support for the transferal and sharing of innovative solutions should be strongly encouraged by the ORR and seen as highly important to the role of the SO.

- Critically important to the terms of reference is a clear direction from the ORR that a balanced and multi-dimensional approach must be taken when making decisions on performance strategy and regimes. We have seen examples in the recent Control Period where one dimensional performance initiatives and strategy has been put together and implemented with limited TOC consultation which may lead to at best short term performance benefits without consideration for wider industry impact in the long term. The opportunity to change the one dimensional approach to resolving performance issues must be not be missed in the next Control Period. The approach to performance has to be multi-dimensional and take into account all elements of cost and benefit. This should include discussion and agreement on schemes which look to improve performance with Routes and TOCs/FOCs at the outset, including balancing performance improvement benefits against journey time improvement, capacity and associated revenue and cost benefits or impacts.

- We would support further devolution of some aspects of the timetabling and train planning roles within the SO; while still allowing Validation and cross checking centrally by the SO.. The ORR should consider encouraging the SO to devolve these processes in order to achieve greater efficiencies and a better overall result for our customers and the railway.

2. **Addressing and tackling Under Performance in Network Rail in CP6**

- The RDG consultation response outlines support for the requirement for a proportional response and approach to regulation of the SO. We believe that a more detailed framework and structure for managing under performance must be set out by the ORR.

- It is mentioned in the consultation document overarching consultation on the regulatory framework for Network Rail that: "As a general principle, where there are strong mechanisms for customers and other stakeholders to work with Network Rail to agree and deliver appropriate

action, we will give the space for these mechanisms to be used, supporting the relationship between Network Rail and its customers."

We believe it is fundamentally important that Network Rail and its customers should be allowed to develop mechanisms to support action and this approach should continue. In addition we would like to see much clearer levels of minimum engagement set out by the ORR. Whilst not being overly prescriptive, it should set out an outline of minimum joint outputs expected from the engagement as well as agreement on the recovery plans that are developed.

- The management of Network Rail's under performance by the ORR needs to be strengthened within CP6. During CP5, we have seen examples of underperformance being tackled in an ineffective manner. Improvement notices and similar regimes have been too slow to deliver the correct results in the right timescales. In the consultation document on the overarching consultation on the regulatory framework for Network Rail, it describes "We are consulting on introducing a number of new incentives, including reputational, procedural and management. We wish to signal the types of responses we will be likely to consider in different performance situations, giving a clear message to Network Rail and its stakeholders about how we may escalate performance issues using an incremental approach to reflect Network Rail's progress in addressing any issues".

We would like to see Owning Group involvement in these discussions on the initiatives, to ensure that they have high impact and will deliver results in the timescales required. We must see a step change in enforcement of measures to tackle underperformance and the timescales in which results must be achieved. This is a common view across all of our TOC and one of the most important aspects to Abellio UK.

3. **Creation of an SO Supervisory Board**

- In line with our comments in section 2, and our response to the Route Requirements and score cards document, we would like to see the creation of an SO Supervisory Board, with the sole purpose of monitoring delivery of system outputs from the SO and ensuring that under performance is tackled using the correct measures. We would strongly support this approach and believe there would be great benefits in this being a cross industry oversight body for a critical function in the UK rail industry. In line with the RDGs view, we look forward to Network Rail setting out further development of SO measures and means by which stakeholders can continue to play a substantive role in the SO's governance.

Response to ORR's consultation on possible measures of the system operator's performance (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 **21 September 2017**.

Full name	Mary Hewitt
Job title	Strategy and Policy Director
Organisation	Arriva plc, its subsidiary Arriva UK Trains Limited and its wholly owned train operating companies (TOCs), Arriva Rail London Limited, Arriva Rail North Limited, Arriva Trains Wales/Trenau Arriva Cymru Limited (ATW), Grand Central Rail Company Limited, The Chiltern Railway Company Limited (CR) and XC Trains Limited (XC). In addition, this response also covers Alliance Rail Holdings Limited and the Great North Western Railway Company Limited. Arriva is a wholly owned subsidiary of Deutsche Bahn AG (DB AG).
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Question 1 (Chapter 2):

Are there any substantive areas of the SO's activities that you consider are not outlined, and where its performance should be measured?

The establishment of a focused NSO organisation with its own Settlement is a major opportunity for the rail industry. However, it is also a major change of approach which will take time to become fully effective, The range of activities that the NSO is tasked with undertaking is broad and varied with many being strategic in nature.

This makes measuring the effectiveness of the NSO's activities challenging.

Clearly, there are many metrics which could be used in this area but the final suite needs to be chosen carefully to ensure that the NSO's Scorecard will deliver the aims set out for Scorecards in general.

In addition, the metrics selected for the NSO Scorecard must:

- Measure key activities and outputs from the processes deployed by the NSO

- Reflect the role of the NSO in these processes.

In this context, a review of the NSO Scorecard metrics should be undertaken once a full process map of the NSO's activities is available.

Arriva observes that, while there are suggested measures related to advice provided by the NSO to franchising authorities, this does not fully cover the NSO's role in working directly with existing and prospective passenger and freight operators in the development of improved timetables and services (including the delivery of already committed Franchise service changes contracted with DfT).

We would therefore support a set of measures related directly to outcomes related to the development, planning and utilisation of network capacity to

- increase the number and capacity of services operated
- reduce journey times
- increase the operational robustness of timetables
- improve the efficiency of service operation
- improve engineering access opportunities
- increase revenue generated.

This links to the observation made in the RDG response relating to the lack of metrics related to the NSO's role in managing output changes through Industry Planning Groups and Event Steering Groups.

The current Timetable development process is resource intensive and takes upwards of 18 months to execute. It would therefore be beneficial to track the progress that the NSO is making towards reducing the cost and time involved in preparing the timetable.

As ORR has highlighted, the effectiveness of the engagement that the NSO has with its stakeholders will be a significant driver of the NSO's ability to address its purpose successfully. Therefore, a fuller understanding of how the NSO proposes to undertake that engagement is necessary before reaching final conclusions on the NSO Scorecard. However, some metrics measuring the effectiveness of the NSO's stakeholder engagement activities will clearly be needed.

Question 2 (Chapter 3):

What are your views on the measures outlined with respect to strategic planning and managing output changes? Are there any additional measures that you think would measure and incentivise the SO's performance in this area?

Arriva agrees with the majority of the proposed measures but would suggest that an increased focus on incentivising the long term planning process to develop operationally based or low capital cost solutions to improving the way the network is used. This would be in parallel with the consideration of capital projects to develop the configuration of the network itself.

While the NSO should lead such work, it needs to engage effectively with operators, Network Rail's Technical Authority and Routes to develop solutions which address costs and opportunities across all elements of the rail system including:

- train crew and rolling stock

- stations
- technical standards.

Question 3 (Chapter 4):

What are your views on the measures outlined with respect to managing the framework for access rights, producing the timetable and use of capacity? Are there any additional measures that you think would measure and incentivise the SO's performance in this area?

Arriva feels that a simple numeric measure of the available and consumed network capacity is not meaningful or feasible.

The majority of proposed metrics aimed at measuring the "quality" of the timetable (D3, D4, D5, D6, D8) are already used and do not give insight into the effectiveness of the timetable in making use of network capability. However, they do provide some insight into the effectiveness of the NSO in undertaking the timetabling process by measuring the level or errors made.

Therefore, Arriva supports the development of the "Level of 'inevitable' TT delay" or "systemic delay" measure to really understand the deliverability of the timetable in real-world conditions. Arriva believes that this would provide an insight into the quality of the timetable against the important Outcome of operational performance.

In the case of the listed production milestone measures it is important that these focus on the NSO ensuring compliance with the Network Code. Arriva suggest that for areas such as "Timeliness of response to Short Term Planning (STP) requests" there is a need the Network Code to be reviewed to build in a higher degree of more sophistication such as providing a sliding level of response time to reflect the nature of different STP requests.

As noted above the final suite of metrics in this area should be determined once a detailed process map is available so that appropriate activities and outputs are measured with a particular focus on the role of the NSO.

Question 4 (Chapter 5):

What are your views on the SO management performance measures outlined, and are there any additional measures which you think would measure and incentivise the SO's performance in these areas? We would particularly welcome suggestions on the SO's role in contributing to system safety.

The management performance measures to be included in the NSO Scorecard should reflect the performance of the NSO in delivering the key parameters of that settlement and aligned to the role undertaken by the NSO across the range of processes that it is involved with.

With regard to financial performance measures for these should cover comparisons of actual spend against the Settlement in areas such as:

- Staff costs

- Charges from other Network Rail functions

- Performance costs related to SO activity (if Network Rail were to "trade" these internally beyond the Routes)

- External contractor costs

- Capital costs

- Costs associated with system development or innovation activity included in the relevant Strategic Business Plan.

As noted above, the current Timetable development process is resource intensive and takes upwards of 18 months to execute. It would therefore be beneficial to track the progress that the NSO is making towards reducing the cost and time involved in preparing the timetable.

The skill and competence of staff involved in the NSO activities will be key to overall industry success. It is therefore important that the NMSO management team clearly define the competence requirements for all staff involved in the processes that the NSO executes. The NSO management team should measure and report on their progress with ensuring that it has the required numbers of staff equipped with the necessary competencies to support its planned activities.

With regard to system safety, the NSO should focus on ensuring that it delivers:

- Timetables with low levels of "systemic" delay

- Opportunities to improve the configuration of the network to reduce:
    - train collision risk
    - level crossing risk
    - risk to maintainers.

Question 5 (Chapter 6):

What are your views on our proposed criteria for identifying possible ORR-determined SO measures?

The range of NSO metrics currently being considered is extensive and it will take time to refine this as the new arrangements mature. ORR should continue to work with the NSO and Operators in the process of developing the most effective NSO Scorecard before reaching conclusions as to whether additional ORR determined NSO measures are required.

Question 6 (Chapter 6):

What are your initial views on what measures, if any, ORR should consider setting as ORR-determined measures?

See response to Question 5.

Any other points that you would like to make

It is not clear if there is a plan to make the NSO measures public. Arriva would suggest that before any move is made in this direction, it would be prudent to allow the suite of metrics to mature through the execution of the NSO Strategic Business Plan governance process.

Submission by the
Chartered Institute of Logistics and Transport
to the ORR Consultation on the Overall Framework for Regulating Network Rail

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

2. We appreciate that this consultation is the next stage in developing the ORR approach to regulation of Network Rail during CP6 and fleshes out the detail around an approach previously consulted on. Also that it develops a principle of having regulatory objectives set at Route level. However, while the delivery against the objectives will be monitored transparently the ORR is legally unable to apply any regulatory sanctions for non-delivery at that level. It is only able to apply them at the level of the Licence holder which is Network Rail as a whole.

3. ORR has recognised that, as a public sector organisation subject to public sector spending limits, Network Rail is not so easily or meaningfully incentivised by financial penalties. The principal route for incentivising performance is thus to be 'naming and shaming' using the Route delivery reports as the basis for comparison between Routes. The ORR will publicise these results and will also expect central Network Rail to invoke management action to incentivise delivery. If Network Rail does not take action that the ORR feels is required then the ORR could take Licence enforcement action against Network Rail.

4. We agree that public comparative embarrassment can indeed serve to incentivise behaviour and is probably the most effective mechanism available.

5. However, there is a risk that a whole industry of excuse makers and excuse challengers could spring up, which would not be value for money, so some arrangement to cut through this risk is needed. This could be as simple as saying that no excuses are acceptable – the results are the results and they are what matter to Network Rail's customers.

6. We are also concerned that the licence enforcement action may only be available against Network Rail as a whole and difficult to enforce when only one Route is under-performing – with the consequence lost in the average, which would not look too bad. It is too late for CP6 but we propose that ORR should consider modifying the Network Licence (or creating more network licences) for CP7 so that it is effective at individual Route and System Operator level so that Licence enforcement could be taken at those levels.

7. The consultation indicates that the Route Requirements and Scorecards will relate to how Network Rail manages routine operations and maintenance activities, with enhancements to be considered separately, later. As this is a particularly contentious area it will be interesting to see these proposals.

8. We are interested in the proposals for monitoring and regulating the System Operator functions of Network Rail, particularly about enhancements planning and use of capacity.

9. In relation to enhancements, we note the emphasis towards non-infrastructure solutions to capacity increases, which may imply lower capital expenditure, and also greater focus on early scheme development and cost estimating. We commend the latter, which may serve to avoid repeating the 'approved-before-properly developed' recent debacles. However, the former may well be overstated. For instance there will be occasions where more capacity may be available by running longer trains but a cap of only £1m on small spend before it is deemed an infrastructure scheme (which by implication is less desirable) may inadvertently exclude a sequence of small platform lengthening schemes that sum to more than £1m.

10. It appears from the documentation that responsibility for a scheme lies with the System Operator during early development (to GRIP 4 – Single Option Development) but is then passed to the Routes for delivery. This appears to provide an opportunity for wasteful and time consuming re-invention of the wheel by the delivery organisation (otherwise known as 'value engineering', all of which should have been done before GRIP 4). It also flies in the face of Network Rail's own findings that projects work better with 'early contractor engagement' – analogously therefore the Routes should be involved during early development and this might mean that this activity should not be retained within System Operation. This is likely to be much more relevant as 'local' rather than national funding sources come more to the fore.

11. A key gap in the consultation is any reflection of the fact that local authorities will normally employ consultants to prepare schemes for them which then need to be delivered by Network Rail. This often results in re-work, a preponderance of 'not-invented-here' reactions and general delays as Network Rail does not feel under any agreed timescale pressures – all this despite the local authority being prepared to fully fund the work. In much of this, local authorities see Network Rail as a contractor but one that is not as responsive as private sector consultants, who are willing to work to client-set timescales. Given that Network Rail, as the monopoly supplier, has to be involved, this seems to be an area where regulatory incentivisation needs to be available. This should form part of either the SO or Route Scorecards.

12. The System Operator consultation continues down the blind alley of seeking to create a metric for use of available capacity, despite many studies that have demonstrated how this is not usefully achievable. For any stretch of track there is a signalled capacity but under-maximisation of its use is dependent upon how it is used. For a mixed traffic railway a decision would have to be made as to whether a stopping service, slow freight service or a fast passenger service is the one that is 'guilty' of using capacity wastefully. This is not a useful conclusion to have to draw. We offer an alternative approach:

  • All requests for additional use of current capacity derive from a commercial need – either new freight business or passenger franchise bid proposals (or specified by the DfT following acceptance of bid proposals)

  • Such requests will be the result of detailed studies by applicants which will have included additional infrastructure where they perceive it to be needed (and affordable within their business cases) e.g. lengthened platforms. They will usually have also considered how small adjustments to other Operators' services could accommodate the proposed services without major infrastructure enhancements, thus already seeking best value in capacity usage.

  • A proxy measure of how well Network Rail is using the infrastructure capacity could therefore be how many such requests for additional services Network Rail has agreed to (or agreed to subject to various works being required).

13. In relation to the long term planning role of the System Operator, it is noted that past studies have looked at exogenous growth factors when predicting future rail use. These forecasts are usually exceeded because no allowance has been made for franchisee-generated growth – even though this is a fundamental intent of the franchising process. This gap needs to be incorporated to give more meaningful forecasts and avoid demand suppression through over-crowding. ORR should resist the government's discouragement of this approach, whatever the implications for additional capacity investment.

14. The System Operator consultation proposes various measures related to the amount of third party funding used in investment projects. This is unlikely to be an appropriate measure – it is for the funders to arrange the portfolio of finance – if they fail to do so the scheme will not progress and this is sufficient incentive to seek it out. There is nothing magical about having a certain amount/proportion of non-DfT funding (and most 3rd party funding will be Local Enterprise Partnerships or local authority funds anyway).

15. On investment, the whole crux appears to be based upon having a 5 year portfolio of schemes in delivery or development. There is insufficient emphasis on accommodating, and responding to, schemes that come forward during the control period – but there will be a lot of these from local authorities, especially as more responsibility is devolved to them.

Submitted by:
Daniel Parker-Klein
Head of Policy
The Chartered Institute of Logistics and Transport
September 21st 2017

Response to ORR's consultation on possible measures of the system operator's performance (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 **21 September 2017**.

|	
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Email*	
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*This information will not be published on our website.

Question 1 (Chapter 2):

Are there any substantive areas of the SO's activities that you consider are not outlined, and where its performance should be measured?

The System Operator operating model

We agree with the approach taken of mapping measures across different activities covered in the System Operator's operating model shown below which was previously shared at a recent stakeholder engagement event.
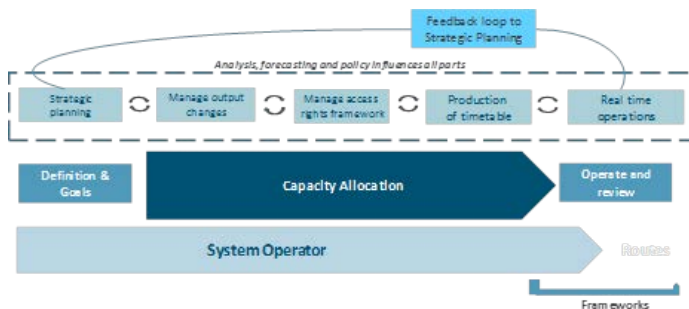
The System Operating Model

This operating model should be supported by process maps and a governance framework that the System Operator reviews with its stakeholders in advance of CP6. It is important to avoid adopting too many measures just because they are readily available and easy to measure, otherwise there is a risk of diluting management focus to the detriment of those key indicators that are crucial for the delivery of customer requirementsand potentially resulting in imbalance of both management and regulation of the System Operator.

The management of output changes is missing from this section of the consultation document. The proposed measures focus on managing the enhancement portfolio and informing franchise decisions. There is a lack of reference to the System Operator's role in managing industry planning groups / event steering groups to coordinate the network's delivery, adaption and incorporation of significant changes.

DB Cargo is concerned that a number of the potential metrics listed in the annex to the consultation document are relevant to system operation but are not in control of the System Operator. DB Cargo considers that such metrics should be reported perhaps as a narrative/commentary issued alongside the scorecard.

Qualitative and quantitative measures / reporting tools

DB Cargo recognises that it is not possible to cover every aspect of the System Operator's work into quantitative measures and instead the System Operator may need to provide qualitative information and descriptions to complete the gaps in any data based approach to reporting. This would also allow for an explanation of decisions / trade-offs made that require the ORR to adjust its expectations.

The System Operator should be engaged in a wide range of reporting on its performance including through the use of existing publications, thereby reducing the overall regulatory reporting burden. Equally, where data is available, route level reporting of relevant System Operator related measures should be undertaken to provide greater granularity than is possible with overly consolidated information which potentially will hide a geographical issue within a nationally reported number.

Question 2 (Chapter 3):

What are your views on the measures outlined with respect to strategic planning and managing output changes? Are there any additional measures that you think would measure and incentivise the SO's performance in this area?

In this area the quality and comprehensiveness of the advice provided by the System Operator will be a central measure of the System Operator's performance. A number of potential measures set out in this section, especially those indicated as not within the System Operator's own accountability, appear more appropriate for inclusion on the System Operator's dashboard.

Engagement with stakeholders and end users is important and the System Operator should be clear in its reporting how it has consulted stakeholders and taken their views into account.

Question 3 (Chapter 4):

What are your views on the measures outlined with respect to managing the framework for access rights, producing the timetable and use of capacity? Are there any additional measures that you think would measure and incentivise the SO's performance in this area?

Managing the framework

As the policy owner for Network Rail's 'sale of access rights' process there are significant opportunities for the System Operator to develop approaches that support the routes work with operators on applications and inform potential regulatory directions and approvals for access agreements.

However, given that the timetabling Decision Criteria are set out in the Network Code and timetabling disputes are determined by Timetabling Panels – these are areas not within the direct control of the System Operator. A few process based measures and more importantly narrative descriptions of the whole system performance are likely to be the most relevant way for the System Operator to report on activities in these areas.

The System Operator should also produce reports such as the Strategic Capacity Statement for example, and the dashboard; may be a better option than the scorecard for these.

Identifying Capacity

DB Cargo believes that the creation of the System Operator provides the opportunity to address the need for a more strategic and innovative use of capacity across the network as a whole. It therefore welcomes a separate determination for the System Operator and urges that sufficient funding is provided to identify resources for research and improved analysis of the network usage policies and capacity assessments.

The System Operator needs to have the ability to balance the competing needs of stakeholders and delivery of capacity and performance in the best way overall.

DB Cargo believes that the System Operator needs to demonstrate its capability to identify and/or create spare capacity on the network through the use of better and consistent timetabling techniques that are not influenced by the routes in an inconsistent way. It also needs to advertise that this capacity is available through the use of the Strategic Capacity Statement and other appropriate ways. It also needs to drive improvements in the capability of the network.

DB Cargo considers that the System Operator should not be measured on the sale of paths but rather on the level of capacity and capability available, whether or not it has been 'sold'. Network Rail's role in DB Cargo's view is to make sufficient capacity and capability available allowing operators to develop commercially the services to utilise that capacity and capability..

Quality advice

Where the System Operator is making capacity allocation decisions, the extent to which it follows the codes and criteria set out in its own and in industry frameworks (e.g.as measured by successful appeals to other bodies) may provide an indication of how efficiently and effectively the System Operator's processes are being managed and delivered.

The System Operator should also propose changes on behalf of Network Rail to processes, decision criteria, network codes and industry / business rules to enable planning and access frameworks to evolve and support the needs of the wider industry.

Question 4 (Chapter 5):

What are your views on the SO management performance measures outlined, and are there any additional measures which you think would measure and incentivise the SO's performance in these areas? We would particularly welcome suggestions on the SO's role in contributing to system safety.

Financial Performance

Network Rail needs to manage the long term sustainability of the network to ensure delivery of safe, reliable and affordable infrastructure for future users of the railway. This should be recognised in the overall assessment of the System Operator's approach to both supporting the railway and managing its business in a sustainable railway.

DB Cargo agrees with the ORR's planned approach of establishing a separate settlement for the System Operator within Network Rail's overall determination. This settlement should be supported with a range of customer informed measures on a business scorecard. It could be reinforced by a Regulated Asset Base for the System Operator and distinct governance arrangements akin to those of the routes that include an independent Supervisory Board.

SBP and Scorecard

For the purposes of measuring System Operator performance, DB Cargo looks forward to Network Rail proposals for a System Operator scorecard that reports through both quantitative and qualitative measures such as:

- Direct assessment of the System Operators own performance

- Delivery against business plan

- Overall, balanced, contribution it has made to system outputs – including an understanding of the trade-offs it has managed.

The System Operator will be required to be clear, transparent and consistent in its decision making whilst still be able to demonstrate a flexible approach to change control of any regulated measures in order to balance industry and funder needs as demands on the network change.

Customer Satisfaction

Quality customer service which includes innovation, problem solving and whole system thinking should be central to the behaviour of the System Operator. DB Cargo welcomes the focus on quality of service provided but also urges the need for timely responses to maximise the opportunity for its business in responding to existing and future customer needs in accessing

the network.

Safety

DB Cargo believes that beyond the safety measures relating to its own staff, the System Operator should also report on its contribution to overall safety and risk. The System Operator should propose these in due course and potential suggestions to consider are –

- Reducing timetable conflicts
- Updating train planning rules
- Identifying level crossing risks from changes in capacity use
- Evidence of safety being designed into longer term planning options

Question 5 (Chapter 6):

What are your views on our proposed criteria for identifying possible ORR-determined SO measures?

DB Cargo recognises that there may be gaps in the System Operator's proposed measures that could necessitate the ORR identifying additional measures. However, it would hope that the consultative approach used by the System Operator to establish its scorecard and wider reporting measures will provide a sufficiently wide range of publicly available data that the ORR will not need to augment..

DB Cargo supports the view that this approach should enable the System Operator to avoid the risk of placing more importance on the ORR's additional measures than on the agreed priorities of Network Rail's customers, which might otherwise restrict the ability for the network to manage shock or stifle future reforms.

Such a risk would of course be dependent on the wider governance framework it establishes to review the System Operator's scorecard and performance. This is a function of Network Rail which DB Cargo would not want undertaken by another body with governance over Network Rail.

Question 6 (Chapter 6):

What are your initial views on what measures, if any, ORR should consider setting as ORR-determined measures?

The use of a properly developed customer focused scorecard at national and route level should lessen the need for additional ORR determined measures. This should indeed support an approach of the System Operator reporting on exceptions rather than its entire suite of metrics to reduce the overall level of regulatory reporting.

Any other points that you would like to make

DB Cargo is keen to see a proportional regulatory approach to the regulation of the System Operator. It is also keen to avoid creating artificial barriers between different parts of the system which potentially place additional cost on the industry and funders due to an over emphasis on regulation of the process.

DB Cargo welcomes the proposed approach to monitoring and enforcement in CP6 where there are strong mechanisms for customers and stakeholders to work with Network Rail to agree, develop and deliver appropriate actions to achieve desired outcomes.

Phil West
DEPARTMENT FOR TRANSPORT

Web Site: www.dft.gov.uk

30 October 2017

Emily Bulman
Head of Regulatory Framework
Office of Rail and Road

By email

Thank you for the opportunity to respond to the ORR's consultation on the overall framework for regulating NR (NR). We are also grateful for the ORR allowing additional time to respond to the consultation, enabling the Department for Transport to first conclude work to finalise and publish the Statement of Funds Available (SoFA).

Overall approach

We welcome the ORR's overall approach as set out in the consultation, which we consider is consistent with the themes set out in the recent guidance from the Secretary of State to the ORR, particularly around using the Periodic Review process to drive an ambitious programme of reform within NR.[1] We welcome the clear commitment of the ORR to making "*significant*" changes to its regulatory approach to help secure a safer, more efficient and better used railway.

In particular, we welcome the clear focus in the consultation in maximising the opportunities for effective route based regulation to hold NR more effectively to account in CP6, facilitating a rigorous and robust challenge to improve NR's delivery and efficiency. We also very much welcome the emphasis on effective and meaningful stakeholder engagement by NR, helping to ensure that passenger and freight shipper priorities are better reflected and supporting closer, collaborative relationships between track and train. Enabling an effective System Operator (SO) is also critical to ensuring an effective and efficient use of capacity, enabling rail to play its full role in meeting the needs of users, communities and the broader economy.

To best secure this approach, the Secretary of State considers it important that, as far as possible, a period of shadow running for the new route based regulatory regime is in place by 1 April 2018, well in advance of the start of CP6. This will enable the whole system to hit the ground running, enabling issues to be fully resolved before CP6 and helping to embed the cultural changes needed to maximise the opportunities created by the route based approach.

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[1] Available at
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/629698/guidance-to-the-office-of-rail-and-road.pdf.

In the remainder of this response, we consider each of the consultation areas, setting out our views on each of them. We would, of course, welcome the opportunity to further discuss these issues as the periodic review process continues.

Network Rail and the determination

While recognising that the legal framework in which the ORR is operating is unchanged, we strongly encourage the ORR to continue to take an ambitious approach to maximise the benefits from route based regulation. In particular, we consider it is important that ORR continues to support an ambitious approach to NR transforming its business, with the regulatory regime supporting and challenging it to do so.

We therefore welcome the ORR's clear focus that the "*routes and the SO should take responsibility for all aspects of their delivery*", including holding their suppliers to account, whether they be external suppliers or internal suppliers, such as Infrastructure Projects or the Route Services Directorate. We consider that it is critical for the ORR to ensure that this theme is fully embedded in the regulatory framework for CP6. This will help enable routes, including the Freight and National Passenger Operators route (FNPO), to have genuine ability to deliver their business plans and be clearly accountable for doing so.

In this regard, we strongly agree that each of the relevant strategic business plans must be signed off by the relevant Director, with a commitment that they are responsible for its successful delivery. Additionally, we consider that for the formal process of NR accepting or rejecting the determination, it is important that NR does more than appropriately engage with its routes and the SO; the routes and the SO must, instead, provide a clear commitment to deliver their business plans. This would help avoid any lack of commitment creeping into the process at this point.

Scorecards

As we signalled in the Secretary of State's guidance to the ORR, we very much support the implementation of scorecards, developed following a genuine and effective process of engagement between the SO, the routes and NR's customers, to ensure that NR is effectively held to account.

We agree that these can support closer working between NR and its customers to better align track and train (including, importantly, bidders in the context of franchises, as the ORR highlights at para 3.23), as well as facilitating comparisons between routes; in this latter regard we do consider that a spirit of competitive rivalry between routes can play an important role in driving performance, something that the ORR must support and embed in the regulatory regime.

Additionally, we agree that scorecards are important to create stronger incentives to deliver – it is therefore useful and important that they are used as the basis for performance related pay, and the Department will continue to discuss overarching pay strategy with NR to ensure effective incentives are in place.

Moreover, we very strongly support the introduction of a route based network sustainability measure into the scorecards – as set out in the UK Government's High

Level Output Specification (HLOS)[2] and Statement of Funds available (SoFA), we would like to see, consistent with ORR's advice, a significantly increased volume of renewals in CP6 to improve reliability and performance. A robust measure will help ensure that the regulatory regime strongly supports the delivery of sufficient volumes of renewals to enable improved performance and that NR is clearly held accountable for doing so.

As the ORR acknowledges, in order for scorecards to be effective, it is critical that their composition, and the underlying approach within them, is effective and persuasive, and takes full account of the HLOS's from Governments. We support ORR's proposed approach for using NR's scorecards as part of the regulatory framework, and consider further related issues in detail in **Annex A**.

National System Operator performance

As we mentioned earlier, the Government strongly supports an effective SO. To achieve this, clearly articulated measures of the SO's performance, which follow meaningful engagement between the SO and its stakeholders is important (including the Department for Transport in its various roles, as well as the routes and other customers). In **Annex B** we set out further observations on this issue and system operation generally.

Stakeholder engagement

Consistent with our comments regarding scorecards, we strongly support the need for "meaningful engagement" between NR routes and their stakeholders to support closer working and joining up track and train. It's also important that end users have their own representation, including via the independent watchdog Transport Focus, something we consider it is important that the regulatory regime supports. We also agree that it is critical that the routes are clearly in the lead to develop innovative approaches, which best suit the requirements of their particular route and customer base; we therefore agree that the ORR should set out clear principles and minimum expectations, rather than look to be unduly prescriptive. In this regard, we have considered the principles of stakeholder engagement set out in the consultation document – in our view these appear reasonable and appropriate, draw on best practice in other similar sectors and are consistent with the previous submissions made on this issue by Government.

To support effective stakeholder engagement, we consider that an active role by the ORR in vigorously assessing the effectiveness of this engagement, and holding routes to account, where it falls below expectations is important. As the ORR acknowledges, there must be clear consequences where this falls below the expected standards. To support this, we think it is important that the ORR goes further than in the consultation document. The implications of different grades for stakeholder involvement need to be clear and explicit to provide the appropriate incentives for effective and meaningful engagement. We also consider that it is important that performance in this area is reported in the Network Monitor, with overall performance against the principles of stakeholder engagement forming an immediate and central role in monitoring NR.[3]

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[2] https://www.gov.uk/government/publications/high-level-output-specification-2017
[3] In this regard we considered that the use of the term "eventual" in para 4.24, may not create the right signal to support clear and consistent progress.

Monitoring and Enforcement in CP6

We welcome the focus on the customer-focussed approach set out in the consultation document, supported by the overall assessment of NR's performance under an overarching licence condition.

In order for this to be effective, we agree that there must be both clear recognition of the success of NR's routes as well as clear consequences where NR's routes (or NR generally) does not meet required outputs. In the light of the public sector status of NR, we agree that reputational incentives are likely to be the most significant regulatory tool, both to support best practice and sanction poorer performance. Maximising the use of effective comparisons between routes, in a transparent way (particularly through public reporting), will clearly be important to achieve this.

We also welcome the clear articulation in the consultation document of the escalation approach, particularly where performance is below expectations or unacceptable. We agree that there is a role for Government, as shareholder, as part of this process. We would welcome the opportunity to continue to work with ORR as it refines its monitoring and enforcement approach to ensure clear roles and responsibilities.

Managing Change

We agree with the ORR that ensuring effective change management is an important aspect of ensuring clear accountability for the routes and ensuring flexibility where circumstances change. This may be particularly important in the case of any potential changes to route boundaries to better align the route with the relevant train operators, helping to further support a collaborative approach between track and train. We consider that the touchstone to developing the appropriate approach must be whether any change, or the possibility of change, results in a diminution of responsibility or accountability.

With respect to financial changes to route settlements, where this issue appears particularly significant, the ability of the centre to reallocate financial resources between routes is likely to substantially diminish accountability. While we fully recognise the importance of effectively managing financial risk, and look to the ORR during the periodic review to ensure a robust, proportionate and efficient approach to this issue, we consider that there should be a clearly articulated presumption against changes, except in exceptional circumstances; any changes should then be restricted to what is absolutely necessary to manage risk where appropriate, and then implemented following a transparent change control process, with significant stakeholder (including the Government as shareholder) engagement. Of course, the approach to this issue, must be consistent with NR's financial framework for CP6; as we indicated in the SoFA, we will continue to work with ORR to develop suitable budgetary and oversight arrangements for NR consistent with its status as a public sector body; it will be important that the regulatory framework should take account of developments in that area to ensure coherence and workability.

Concluding remarks

Thank you for the opportunity to respond to the consultation. We would welcome further discussions on each of these issues as the period review process develops to ensure that, collectively, we maximise the opportunities it provides for supporting an effective, efficient and responsive NR, alongside greater alignment between track and track and train.

Yours Sincerely

Phil West
Director, Rail Strategy and Security

ANNEX A – ROUTE REQUIREMENTS AND SCORECARDS

Route requirements and scorecards

We welcome NR's increased focus on its customers' requirements, as captured in the scorecards, and agree that this evolving approach must be complemented by ORR using scorecards as a monitoring, assessment and enforcement tool, alongside the wider set of information and requirements ORR will expect NR to report on outside of the scorecards.

While allowing for a range of customer-led measures and thus the greater alignment of NR's and operators' incentives, we also agree that scorecards should be balanced, should reflect appropriately the requirements the UK Government and Transport Scotland have set in the HLOSs, and should facilitate comparisons between routes. This latter point will be crucial to unlocking the full benefits of route devolution, including benchmarking of routes, greater transparency of relative route performance, and greater competitive rivalry between routes.

We therefore support ORR specifying a number of consistent measures which should be included in scorecards throughout CP6 to ensure that routes' performance in key areas can be compared, and agree with the areas identified as requiring consistent measurement across routes. We strongly support the setting of a regulatory minimum floor for the two areas suggested: train performance, and network sustainability. We agree with the proposal of setting the regulatory minimum floors below the assumed trajectories set out in the PR18 determination, given that a breach would likely lead to formal investigation for licence breach.

The scorecard consultation poses question on which exact measures should be included in scorecards. While we look to the ORR to determine the precise measures in light of consultation responses and its own judgment, we offer the following views on some of the options presented:

- **Financial performance:** routes must have clear, consistent and explicit measures of effective spend and efficiency, given the importance of efficiency gains in improving the financial sustainability of the railway and the value it offers customers and taxpayers. We consider that this must go beyond the position typically set out in regulated sectors (using the RPI-X system) to ensure transparency.

- **Train performance (passenger):** we agree with the need for a consistent measure of routes' contribution to train performance, and believe that it should reflect how well routes manage reactionary delay, including delay arising from operator-caused incidents. NR has a key role in minimising the overall delay experienced by the end user, and the measure should take account of that. This is part of improving the alignment of incentives in rail, as supported by NR and the industry via the National Task Force, and we will work with the industry to identify other opportunities for improvement in this area.

- **Train performance (freight market):** we support the inclusion of a freight performance measure on the FNPO scorecard and the geographic route scorecards, which will increase visibility of freight performance at route level and support comparison between routes. We believe that further work is

needed between NR and the freight industry to define the measure, e.g. whether it reflects freight delay minutes.

- **Passenger experience:** we agree that a consistent measure (or measures) of end user experience is vital. Of the measures proposed, we view overall passenger satisfaction as most important, followed by overall passenger satisfaction with NR-managed stations.

- **Investment:** we would welcome scorecards reflecting how well NR encourages third-party investment in the railway, which we consider an important an important additional measure of finance in CP6, and look to ORR to work with NR to determine how best to achieve this.

We also support ORR specifying a consistent measure to for inclusion in geographic route scorecards which reflects route performance in health and safety, network sustainability (which we consider of particular importance in the light of the UK's Government's HLOS and SOFA, and the focus on increased volumes of renewals that they include) and use of the network, and support the ORR's preferred approaches.

We remained keenly interested in the measurement of available network capacity and how "well" it is being used, and welcome any further work from ORR and the industry on potential measures in this area.

General points

We recognise that NR route scorecards already contain a large number of measures. We think it's important that there is a consistent measure across geographic route scorecards for the areas identified, <u>but as far as possible this should be achieved while minimising expansion of the overall number of measures</u>.

Scorecards are likely to be increasingly important as a communication tool for NR performance, particularly at the route level. We think this is a good opportunity for NR to review the presentation of scorecards to make them as accessible as possible, as well as how the data is publically reported. This could include, for example, making historic records of past performance available, and dedicated presentation of scorecard data (outside of quarterly reports).

It will also be important to put scorecard data in its proper context, e.g. explaining how the measures are calculated and what they represent, any differences between routes or wider circumstances which contribute to relative performance differences, and how the data relates to other industry reporting. There will remain a wealth of information that is of interest to us as funder and shareholder which is not appropriate to include on scorecards, and which ORR will continue to monitor and report on, including more detailed data on financial performance and efficiency.

We will continue to work with NR and the ORR on the development of scorecards, including the annual process of setting scorecard measures where the Department has a role to play as proxy for future users and operators, as well as in its role as shareholder. We look forward to the further evolution of scorecards in greater aligning the work of NR and train operators, and driving improved outcomes for passengers, freight shippers, and the taxpayer.

ANNEX B – SYSTEM OPERATOR

Possible measures of the system operator's performance

Overall, the Government welcomes the opportunity for increased focus and coherence created by bringing the range of NR system operation functions together in the National System Operator (SO). We also support the approach being pursued by the ORR to separately regulate the SO during CP6.

We would welcome continued dialogue on the issues raised in this Annex, with both ORR and NR.

An objective, capable and open SO is vital to rail

Government has responsibility for the legal framework of the rail sector, and plays an important role in defining the functions of many rail bodies. We are, as you are well aware, the shareholder of NR. We seek to ensure that the organisations we sponsor, fund or contract with are structured in a way that can deliver the Government's overall goals for the railway, helping to better serve customers, communities and the wider economy.   We will therefore want to engage with the SO on the following capabilities and principles:

a. **being impartial and objective** – treating customers fairly, and ensuring actions and advice are objective

b. **producing and using high-quality, appropriate evidence, analysis and tools**

c. **supporting timely, well-informed decision-making** by all parties

d. **working openly, transparently and leading engagement**

e. **achieving the right balance between routes and the SO**

f. **helping third parties and new entrants** fund and finance rail, or develop, design and deliver rail schemes.

g. **supporting the Government's goals for rail in a balanced way**: helping the railway offer good services for passengers, opportunities for citizens, communities and the economy (including by moving rail freight), and value for taxpayers.

DfT has specific interests as client of the SO

As well as our interest in ensuring the overall industry structure can deliver the Government's specific goals, DfT is a major direct client of the SO. Whilst not unique, the scale of our rail investment (as reflected in the SoFA, for example) and strategic decisions make DfT's relationship with the SO and the quality of the SO's advice to Government critical for the railway. Key DfT functions that rely on SO advice include:

- Investment in enhancement schemes (**DfT as enhancement funder**)

- The development, design and delivery or major projects, key fleet procurements and HS2 (**DfT as Project Sponsor**)

- Franchising functions, including service design, fleet and depot decisions, competitive bidding and contracting and use of Franchise Change or other mid-term interventions (**DfT as Franchising Authority**)

ANNEX B – SYSTEM OPERATOR

Measuring and improving performance by the SO

We recognise the useful work led by ORR and RDG in developing and assessing the measures/metrics under consultation. In part, this work has proved how challenging it is to find quantitative measures that reflect how well the SO functions.

We support the proposition that the SO should first engage with its customers and clients to ensure their priorities are central to planning and delivery of SO work during CP6, before the ORR considers specifying measures. As well as supporting the SO's engagement with TOCs, FOCs and other stakeholders to make sure their priorities are captured, DfT is keen to engage in three key areas.

Firstly, we want to see the SO assess its performance and improve its capability over time. It would be particularly useful to understand performance and progress on the capabilities and principles highlighted on the previous page. In particular:

- how the SO's organisation and governance will **encourage impartiality**. We would like to see the SO providing concrete information about its decisions so it can assess its own track record, and stakeholders can hold it to account on this key issue. The SO faces a particular challenge to demonstrate how the interests of NR routes or NR as a whole do not outweigh the interests of its other customers and the wider public interest.

- the SO's approach to **analysis, modelling and forecasting**, where we would like to see NR and DfT analysis aligned more effectively to help the industry as a whole take better decisions.

- How the SO will develop timely, high-quality support for third party investors and developers, including guidance or other tools to drive up efficiency or help the railway access funding and/or finance. We consider the SO has a key role in supporting the development, design and delivery of projects by third parties, and therefore in delivering the contestability agenda as set out in the Hansford Review.

- How the **relative roles of the SO and the routes** will support empowered, local decisions as well as securing network benefit. How routes and the SO work as clients for enhancements at various stages of the life-cycle is one key area, as well as roles on passenger and stakeholder engagement. We know NR have put considerable thought into ensuring the split between SO and route functions works well. DfT, like NR, will want to see good results as the new structures bed down.

Secondly, because stakeholder feedback is an important tool for judging the performance of the SO, we want to develop clear agreement between NR and DfT on how SO outputs will be assessed for key processes where DfT is a client.

Thirdly, we welcome the proposal in the consultation for the SO to lead work on tools and reports that help us collectively understand the use of, or capability of, the railway system (as distinct from the performance of the SO). This could build on the concept of a system dashboard, and could be a useful product to inform strategy and help DfT make the decisions about outputs that form a large part of our work.

Some more detailed comments on the consultation questions are set out below.

ANNEX B – SYSTEM OPERATOR

Measures relating to strategic planning and managing output change

Our core aims in this area are around quality, which we think is best explored through customer satisfaction. Any such reports or metrics should be structured to ensure perverse outcomes are avoided, and to make them as objective as possible. Bilateral agreements between the Department and SO about the timing, scope and nature of advice and analysis should form the backbone for DfT as client assessing how well SO has delivered. This approach already exists in places, e.g. as part of franchise project planning, and we would like to develop this concept further with NR.

There may be merit in developing some core satisfaction questions on specific quality issues, for instance:

- whether DfT or other decision-makers who use the products of the long-term planning process are satisfied with the quality of advice, or

- whether clients are satisfied that the SO's approach to modelling and analysis (including demand forecasting) provides information which supports decision-making and is in line with industry best practice.

Progress against milestones seems an intuitive metric, as the SO should certainly be working to meet key milestones, which are important to the Department. However, depending on weighting, there is a risk of privileging timeliness above all other considerations. Anecdotally, pressure to meet milestones may in past have resulted in NR delivering unnecessary advice rather than cease work. This could potentially be tempered by providing a process where the milestones of most importance to clients and stakeholders are identified, and timescales could be altered by agreement. Alternatively, clients could be asked to rate their satisfaction with delivery against milestones, rather than focus on the milestones themselves – a focus on the outcome rather than the process.

Many of the other measures explored in sections A and B would be interesting to have information on, but their interpretation would be challenging, as the consultation recognises. We are keen to work with NR to understand performance and improve practice in many of the areas flagged, and would particularly welcome qualitative work, lessons learned and internal management actions which can help DfT and NR understand delivery of benefits from schemes, and how outturn varies from plan.

Managing the framework for access rights, producing the timetable and the use of capacity

The advice provided on capacity and network capability decisions may best be assessed through structured stakeholder feedback on quality, fit and timeliness.

Section D, which explores measures for timetabling and near-term access requests has the largest number of directly controllable, quantitative measures. Some of these (such as the number of timetable defects) are promising metrics for customers to discuss with NR, but the "measurability" of these metrics should not lead to an unbalanced scorecard for the SO which puts more weight on these functions simply because they are more easily assessed. This is one aspect of balance which will need consideration when the ORR reviews progress on SO measures for CP6.

DfT is interested to explore the SO's role (and how it fits with industry mechanisms, and/or NR geographic or FNPO routes) in some key areas around access, including

the competing demands on the network for engineering access and services. These are clearly important issues for system operation, and potentially have a major impact on DfT goals for passenger/freight services, network efficiency and value.

SO management performance measures

In assessing quality, we support the approach of asking stakeholders how far products and processes met their needs. Measures which track relationships, overall engagement and trust are also important that should be clearly separated and defined. The value of this information will be how trust or engagement scores change over time, rather than the overall score or comparisons with routes.

We consider there is room to separately track the quality of the relationship between the Department and the SO, given our closely linked roles on planning the use of the network and our investment in future system capability, and the scale of decision-making and the scope of DfT's role on national rail.

The criteria for possible ORR-led SO measures

We support the process suggested for determining ORR-led SO measures, that would see NR working with its stakeholders in the first instance to agree balanced measures for reporting over the course of CP6 (including in the SO scorecard). We broadly welcome the criteria set out for determining whether ORR should impose measures, including consideration of balance and stakeholder requirements.

The potential for customer interests to focus on the short term is discussed by the ORR. It is worth adding that the comments apply largely to TOCs and FOCs. DfT, in its many functions, will seek to represent the interests of future rail users and sub-groups of users (both freight and passenger), and these considerations are likely therefore to feature in our requirements for the SO. As well as focussing on different groups of passengers, DfT will focus on the interests of taxpayers and our wider goals for supporting citizens, communities and economic growth (including by the carriage of freight).

By email:

pr18@orr.gsi.gov.uk

John Larkinson

Office of Rail & Road

One Kemble Street

London

WC2B 4AN

21 September 2017

Dear John,

Response to ORR's Consultations on the Overall Framework for Regulating Network Rail and on the Possible Measures of the System Operator's Performance

Thank you for the opportunity to respond to this consultation. This response is made by FirstGroup on behalf of our Rail Division and its train operating companies: Great Western Railway; TransPennine Express; Hull Trains; East Coast Trains Ltd; and South Western Railway (which is a joint venture between FirstGroup and MTR).

FirstGroup is a core member of the working groups established by the Rail Delivery Group (RDG) in relation to the PR18 process, which has spent time reviewing both of these consultations and debating feedback. We are therefore fully supportive of RDG's response to this consultation and for the avoidance of doubt RDG's views can be interpreted as being reflective of ours in all but two specific points. In these two cases, we acknowledge the arguments made by RDG but feel some additional clarificatory commentary is required These are noted in the main text of our response. The remainder of our response reflects the themes contained within the RDG response and provides some additional detail on some of the more important areas that FirstGroup is keen to comment on.

We would request that the ORR considers our letters of 10th March 2017 (Response to ORR's Consultation on Improving Incentives) and 13th September 2017 (Response to ORR's Consultation on Renewals Efficiency) as there are pertinent and related points, for example in relation to setting performance targets to enable relevant and meaningful benchmarks for Schedule 8. Included at Appendix 1 is FirstGroup's letter of 31st May 2017 to Network Rail in relation to the development of the System Operator function and role, which we feel is relevant in the context of this consultation given the separate funding settlement in CP6.

Given FirstGroup's support for the matters raised in the RDG's responses, rather than list answers to the questions in the consultation document this letter deals with those specific areas where we have additional comments that we request the ORR takes into consideration. The Overall Framework matters are dealt with first before turning to the System Operator (SO).

Overall Framework for Regulating Network Rail (including Scorecard measures)

1. **Scorecards**

   FirstGroup is supportive of the use of scorecards in ensuring that Network Rail is meeting its obligations; delivering its outputs in relation to the funding settlement; ensuring that its customers', the operators, needs are being met; and crucially is being held to account. This final point is particularly important, given Network Rail's ownership status which means that it effectively operates at arm's length from Government with no other shareholder or stakeholder scrutiny or accountability. Scorecards will therefore be important in setting expectations of what Routes and the SO are expected to deliver during CP6.

   With the ownership status that Network Rail has there is no commercial pressure and as such there needs to be a different system of ensuring deliverability and success. We therefore agree with the recommended approach to use comparative measures across each of the Routes. FirstGroup is pleased that the ORR is trying to find ways to encourage Network Rail to focus on its customers rather than delivering the requirements that the ORR sets, as this will ultimately help to deliver for the end-users. We also agree that scorecard measures should reflect overall railway outcomes and take account of what Network Rail's customers require of their infrastructure provider.

   Given that Network Rail Routes do not match with train and freight operators geographical networks, Routes have to have multi-lateral engagement with their customers. As such there should be a multi-lateral customer-based element within scorecards, which ensures that there is recognition of the consistency of delivery that operators require as they cross Route boundaries. There are also bilateral relationships with operators to consider, but no-one customer should be treated favourably by a Route regardless of status.

   Taking all of this into account, it is likely that for scorecards to be effective there will need to be four elements to them, as follows:
   - Comparative measures set by the ORR to ensure that Network Rail is delivering its obligations and outputs in relation to the funding received for CP6;

   - Network Rail's own internal measures (where these differ from above), again comparative, to ensure effective management, delivery and monitoring of its assets and business plans;

   - Multi-lateral customer requirements, where each Route determines deliverables and outputs that are consistent for all its customers. These may be similar measures to those in the two categories listed above;

   - Individual customer requirements for bilateral relationships, or where appropriate, reflective of alliance arrangements. Again, these may be similar to those in the categories listed above.

2. **Targets in Relation to Operational Performance**

   This is the first of the two areas where we would like to provide additional clarification on the points presented by RDG. In this case, in paragraph 9 of its response to the Overall Framework, RDG notes that "some members believe that the ORR should be going further than this and set the expected level of outputs that must be achieved by Network Rail...", FirstGroup is one of those members, and therefore supports the use of targets for measuring performance. The rationale for this is explained in more detail below.

FirstGroup notes that the ORR wants to set minimum performance levels for Network Rail to achieve. Whilst this is supported to an extent, it cannot replace setting effective and realistic target levels for key deliverables such as operational performance. In our letter of 10th March 2017 we set out why setting targets and benchmarks for performance are particularly crucial, the pertinent points are reproduced here for ease of reference:

"There has to be a level of past performance in order to set benchmarks to achieve the desired outcome of improved performance. This is just as true in the context of the funding in place for Network Rail to deliver for its customers and ultimately the end user as it is for passenger operators. Quite correctly there are no regulatory targets for operators, as they have their own existing commercial and contractual incentives to deliver good performance, as such the only method left to set a benchmark is the use of past performance. We are not sure why the ORR believes that operators do not have incentives to improve their performance against a benchmark based on historic delivery... operators are incentivised through their own revenues and reputation to improve performance. Franchised operators also face an incentive to improve TOC on Self delays and cancellations through the performance regime contained within their franchise agreements.

Network Rail benchmarks must be appropriate for each operator and be set at a level cognisant with service delivery (i.e. Service Group). This is also consistent with Network Rail devolution and the move towards regulatory settlements by Network Rail Route.

We accept that using PPM is not necessarily appropriate to set Network Rail benchmarks or even for enforcement purposes. However, Network Rail can be measured on delays and cancellations that it causes and these can provide a clear and effective regulatory target. With Network Rail funded to deliver improvements through the Control Period there is a trajectory of performance that can be used to set benchmarks within Schedule 8.

By linking the benchmarks to these regulatory targets will ensure that Network Rail is incentivised to deliver in a manner consistent with the regulatory settlement. We would advocate that with such a relationship in place that there would not be a need for additional fines to be levied against Network Rail for failures to deliver against its targets as it would already be paying out compensation to operators if it under-performs against the benchmark trajectory."

Building on those comments, we offer the following additional reasons why relying on a floor or base level of performance on its own is simply not effective or reasonable:

- Operational performance is the most important factor for end-users, the passengers travelling on the Network (as reflected in the National Rail Passengers Survey) and the freight companies' customers. To not have a target level commensurate with the funding put in place for the Operation, Maintenance and Renewal of the Network means that Network Rail does not have anything to strive for and could ultimately accept mediocrity, regardless of the challenge from operators or indeed from ORR itself given that Network Rail will not been required to achieve anything other than avoid performing at an unacceptable level;

- Network Rail is responsible for the performance of the Network, as set out in the Railways Act and as such should be incentivised to ensure that it is as good as possible for the funding received, which a floor does not achieve;

- We understand that the ORR wants performance targets to be agreed with operators on a bi-lateral basis, but each Route has more than one operator and there is not a common geography between operators and Routes. This means that there are several specific measures that could be chosen by operators which could be in conflict or not amalgamate to a realistic overall deliverable, so a common and specific target for each Route and collectively for Network Rail will avoid this;

- We agree that an overall punctuality target is not a fair measure for Network Rail as it is not wholly within its control. However, basing a target on a common currency of delays (and cancellations) per 1,000 train kilometres is a sensible, consistent and equitable measure that can be applied across Routes and recognises the different operational geographies of operators. It can also be used to establish the benchmarks for the Network Rail element of Schedule 8;

- In addition to helping to deliver an acceptable level of performance for their customers, franchised operators rely on Network Rail's performance to help to meet the revenue forecasts on which their business plans are based. During a competition for a franchise, bidders are provided with a forecast level of performance from Network Rail and will meet with Network Rail to discuss and determine future performance levels. Those that are included within a franchise are reflective, therefore, of the Governments desired outcome for that franchise. The performance levels are a key input to the revenue within a bid and bidders accept a level of risk associated with including forecast performance levels. However, during franchise operation Schedule 8 compensates train operators for the risk taken on Network Rail's performance level (as the benchmarks in Schedule 8 are designed to be set at the expected level of performance for that Control Period), this is also why Network Rail can earn a bonus should it outperform. Franchise bidders can choose to include forecast performance beyond that estimated or provided by Network Rail, and do so fully on risk. But this should not be a reason to remove target benchmark levels associated with funding for a Control Period, for which a degree of certainty is relied upon. We would also ask that the ORR acknowledges the levels of performance for franchises when it reviews Network Rail's Strategic Business Plans, as these are clear reflections of funders requirements for acceptable passenger performance outcomes; and

- Relying on locally agreed measures is unlikely to achieve targets that are acceptable for operators, as demonstrated by the performance targets included in 2016/17 Route Scorecards – i.e. they do not reflect the PR13 expected outcomes.

Whilst the foregoing focuses on operational performance, a number of these points apply equally to other metrics that will be included or need to be included on scorecards. We would also observe that aligning targets, metrics and results with management incentive schemes within Network Rail will help to achieve appropriate and required outcomes.

3. **Governance, Monitoring and Engagement**
There are several elements to ensuring a successful outcome for CP6, not least how Network Rail will continue to engage with its stakeholders but also how the ORR ensures that Network Rail achieves the outputs consistent with the funding provided, aligned with outcomes that operators are delivering. Here we focus on monitoring and

governance as well as the role of the other Network Rail functions that will not receive separate and distinct funding for CP6.

As we have stated on a number of occasions, it is ultimately the role of the ORR to hold Network Rail to account and to ensure that it is delivering. We recognise that ORR will continue to monitor Network Rail and will take enforcement action where required. Given the status of Network Rail, fining it for under-delivery as has been the ultimate enforcement in the past will not necessarily be effective and will merely remove money from the system and limit the outputs for the railway that can be achieved. We would therefore advocate that in circumstances where Network Rail is failing that action plans which commit resources, an approach that has been adopted in the past for franchises, is used. We would also argue that the ORR should use the reputational management approach proposed, ensuring that management incentives and pay reflect delivery of targets and outputs.

We are concerned that the emphasis from ORR seems to be that operators hold Routes to account for delivery and that they will be expected to, in effect, take on a de-facto regulatory monitoring role. Whilst it is expected and entirely appropriate that operators demand delivery from Network Rail for those elements of its operation that are critical to providing an effective service for end-users, there are numerous deliverables for Network Rail that operators do not have the skill to asses or indeed need to monitor. As such, there needs to be a balance, between bilateral and multi-lateral engagement between operators and Network Rail and the ORR monitoring, reviewing and publishing Network Rail results. This links with our comments as to why there will need to be several parts to any scorecard.

We note the emphasis placed by Network Rail on the new Route Supervisory Boards, however, these are not the right forums for discussing delivery and compliance with the outcomes of CP6 in relation to the funding provided. Network Rail established these bodies originally stating that they would hold it to account, although increasingly this seems to be missing from the agenda. There also appears to be a decreasing role for minority operators within Routes which means that the emphasis may be distorted. We would, however, suggest that the industry working together under the leadership of the RDG could develop and implement a more effective and appropriate forum for monitoring outputs during CP6 that would complement the bilateral and alliance boards that each operator has in place. This would also help to address concerns that multi-Route or National operators have over the role of the Route Supervisory Board concept. This approach could also consider an effective approach for considering how the SO is monitored.

Whilst there is clarity of funding for Routes and the SO, of which we are supportive, this is not the case for the roles of the Technical Authority and Infrastructure Projects (IP) within Network Rail. There has been a significant emphasis in recent months on Network Rail's efficiency in delivering renewals, but what about enhancement delivery – the activity that is undertaking by IP? This part of Network Rail will also be continuing to deliver outputs planned for CP5 in CP6, will these continue to be subject to CP5 oversight? How is IP going to be held to account in CP6 both in terms of efficiency but also effectiveness? These are important but apparently unanswered questions that need to be addressed over the next 18 months before CP6 starts. We would welcome further debate on these areas and would be keen to be involved.

There are similar concerns about the Technical Authority. This is the body within Network Rail responsible for setting and applying consistent standards across the Network, yet there is no apparent oversight or observable requirement for this important function.

For both the Technical Authority and IP effective engagement with operators is required and the ORR will need to ensure that this happens. We are supportive of the RDG's proposals in working collaboratively to ensure appropriate arrangements are put in place.

4. Change Control & Flexibility

Change Control will be an important process for CP6 given the devolved settlement approach. Changes will need to be supported by business cases and with evidence of the views of stakeholders that will be affected have been considered.

We also support the comments by ORR that monitoring, reporting and enforcement is flexible across Routes. This means that where Network Rail is underperforming in one Route that the total funding can be reallocated as required to redress the failing situation in a way that is consistent with the overall management of the Network.

System Operator

1. Overview

FirstGroup is supportive of the separate SO settlement and for the proposed roles of this function within Network Rail not least with regard to:

- long term planning;

- access and capacity planning;

- providing a single team of experts to work with bidders for franchise competitions; and

- for ensuring dedicated resources exist to support the development of projects relating to the Network that are not provided for within the CP6 funding settlement or that may be promoted or funded by third parties including train operators.

An effective regulatory regime is required for this function, as it is for all parts of Network Rail, and our comments on the proposed measures for this organisation are provided to help ensure that this function is successful and works for the benefit of end users of the railway. Our letter to Network Rail, attached as Appendix 1 to this response, should be taken into account by the ORR in considering the approach to regulating and funding an effective SO in CP6.

2. Measures & Scorecards

The SO function is very different from that of the Routes, as its role is both to enable effective delivery within the Routes, but also in some key elements it will deliver outputs that help to achieve overall railway outcomes. The measures chosen therefore need to be relevant and focus on what can be achieved by the SO rather than being held accountable for outputs that are not within its control. Qualitative and quantitative metrics should also be used together to provide an effective and meaningful balance of measures both for the SO, its customers and the ORR.

Some specific comments on the proposals contained within the consultation document for measures for the SO are as follows:

- *The Long Term Planning Process (LTPP)* – The SO will undertake this role, fulfilling the legal requirement placed on Network Rail to do so. However, it is not reasonable to hold the SO to account for the failure of a forecast growth figure not being achieved. Rather it would be more sensible to measure the SO on delivery of updates to the LTPP including forecasts and potential solutions to gaps on a regular basis. It would also be useful for there to be a measure on engagement and involvement with operators in the process, including confirmation of acceptance of proposals. This is important as there are numerous ways to provide capacity on the Network, including: timetabling; rolling stock; infrastructure; and signalling

- *Timetabling and Capacity Planning Processes* – Compliance with the detailed planning process is important for operators as this ensures that timetables can be produced and advertised to end-users with confidence. Measuring planning based on delays alone may highlight that there are problems with the plan, but it places an emphasis on managing the delays or even an incentive to ensure that they are attributed elsewhere rather than concentrating on resolving the root cause. We would advocate the adoption of measures that ensure the SO is delivering on its obligations and producing timely and accurate (i.e. without errors and in compliance with Train Planning Rules) inputs to the process and the timetables themselves;

- *Availability of the Network* – It remains important for there to be a measure on the availability of the Network for operators. However, an improvement on the current P-DIP metric, which operators do not find useful or indeed meaningful is required. The current approach simply measures possessions after the timetable has been produced, which completely misses the point that there are number of possessions that are already accounted for in that timetable. The true measure of whether the Network is available should be against the access rights that operators hold and the timetables that they request in association with these rights. Where an operator is not able to fulfil its access rights, or desired timetable, due to Network Rail taking possession of the Network could be used as a more effective measure;

- *Stakeholder and Customer Perceptions/Satisfaction* – It will important to understand how well the SO is performing in providing advice as well as its outputs and deliverables, which could be achieved through surveys, much like train operators use themselves. This could be applied to potential third party funders of schemes. Using such an approach would provide a quantifiable assessment of delivery;

- *Franchising* – As noted above we are supportive of the proposals for the SO to have a dedicated team to lead the Network Rail input to franchise bidders and provide advice to DfT. This is the second area where we would like to clarify the commentary provided by RDG. In paragraphs 31 to 32 of its response to the System Operator Consultation the RDG sets out that Network Rail should be involved in the assessment of bids. In our view there needs to be a clear distinction here between assessment in terms of reviewing and providing advice and that of evaluating bids. We do not agree that Network Rail should evaluate bids as it is not responsible for funding the Network or for determining outcomes. There is, however, a role for Network Rail to continue to play in providing advice to DfT ahead of ITTs and providing a review of the plans contained within bids, particularly in relation to those activities that have been discussed with prospective franchisees during the bidding phase.

- *Financial Performance and Delivery of the SBP* – it is important that there are a range of measures to ensure that the SO is effective and efficient in its delivery, much as any other business would be. In addition, given that the SO will be operating alongside the Routes, it is important that there are locally agreed measures with operators to reflect the engagement and delivery of relevant outputs.

3. Summary

Finally, we would like to add that the role of the SO has the potential to be beneficial to the industry. It is the engagement and collaboration with operators, Owning Groups and RDG that will help to deliver this and that is where the onus for the SO should be. If there are too many measures and metrics imposed on the SO by the ORR, then this could be counterproductive with the SO engaged in delivering for the ORR's monitoring purposes rather than for the benefit of the railway. Equally it is important that the SO does not inhibit or look to overly control the Network so the role of the ORR in monitoring and holding the SO to account will be important. There is a need for a small number of specific regulatory-focused outputs and measures however, the majority of key indicators for the SO's performance and deliverability should be achieved through the use of metrics that are developed and agreed with operators and the wider industry.

Once again, thank you for the opportunity to comment on this consultation. Should the ORR wish to discuss any aspect of this response in more detail please do not hesitate to contact me. We will provide a copy of this response to RDG and Network Rail.

Yours sincerely

Russell Evans
Policy & Planning Director, First Rail

Appendix 1

Letter from FirstGroup to Network Rail commenting on the first draft of the System Operator Strategic Business Plan

By email:

████████████████████

Helen McAllister

Industry Planning Manager

Network Rail

One Eversholt Street

London

NW1 2DN

31 May 2017

Dear Helen,

Network Rail's System Operator Strategic Business Plan Draft for Consultation: FirstGroup Comments

Thank you for the opportunity to comment on your draft Strategic Business Plan for the proposed National System Operator business unit. This response is made by FirstGroup on behalf of our Rail Division and its train operating companies: Great Western Railway; TransPennine Express; Hull Trains; East Coast Trains Ltd; and First MTR South West Trains.

We welcome the development of the System Operator (SO) role within Network Rail (NR) as a natural and consistent step in the devolution process. We also welcome the assurance that NR intends to work more closely alongside its customers within the industry, taking account of passenger and stakeholder needs.

The formalisation of the SO activities through the creation of a Business Plan and a separate Regulatory Settlement for CP6 means that it is essential that the role, responsibilities and boundaries of the SO function are clearly defined and understood. This will shape and define stakeholder expectations, while also setting a minimum level of service that NR should achieve in discharging these SO activities with customers and funders. We would propose that the formalisation of the SO function gives the Office of Rail and Road (ORR) an opportunity to restate the requirements of NR specified via its Licence Conditions on asset knowledge and wider strategic planning.

A key objective of the SO function in CP6 will be to restore industry credibility with funders and stakeholders following the at times poor experience of CP5. It is therefore essential that the System Operator speaks with authority and relevance and can demonstrate that it is holding the NR Routes to account for the creation and delivery of outputs.

Competence in technical and operational matters is a key skillset within the SO function in engagement with funders, users and the Asset Management and Route teams within NR. This applies with each of the strategic planning, train planning and capacity and capability activities.

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Rail Delivery Group

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It is essential that in its forward planning, the SO considers the potential for asset enhancement upon renewal and ensuring that renewal is based on modern equivalent form, moving away from the presumption that "like for like" is adequate. This outlook has led to suboptimal outcomes over the past 20 years. Renewals led incremental enhancement becomes essential as the network prepares to adopt ETCS to optimise capacity and performance with junction turnout speeds commensurate with the capability of new build traction, and as the sources of funding become disparate and smaller.

We welcome the proposal that the SO will be the part of Network Rail that will discharge the responsibility of Long Term Planning on behalf of the industry. FirstGroup is fully supportive of this process and recognises that it is at the heart of identifying how the industry will meet future challenges. This process remains strategically important for the development of the Network as a whole, which is required to help drive economic growth and prosperity. In turn, this will ensure that options to meet changes in demand and other requirements (e.g. performance) are assessed and solutions identified. These solutions are then available for funders to define as outcomes for industry to deliver, for example through franchise specifications.

The SO needs to develop and maintain a list (by priority) of solutions, which will include infrastructure enhancements alongside other solutions such as rolling stock replacement, train lengthening or timetable solutions, required to meet demand and generate economic growth over the next thirty years. A list of developed infrastructure schemes will be important, given the likely change in approach for CP6 and beyond, with enhancements likely to be specified outside the process for Operations, Maintenance and Renewals (OM&R). NR Routes will be able to align renewals to enable incremental enhancement in line with the needs thus identified. Correspondingly there is a need for the SO to show constructive challenge on technical standards to secure efficient, economic and appropriate outcomes.

There is the question of the alignment of incentives within NR to permit the SO activities to function efficiently: how will the SO ensure that the Routes engage appropriately with Route based Strategic Planning? To ensure that all opportunities for enhancement are considered it is essential to involve the Asset Managers at Route level, but it is often the case at present that RAM teams are under-resourced to engage in strategic development work beyond the core funded OM&R activities. For NR to be able to respond effectively to the changing industry that will include an increased appetite for schemes to be funded by third parties (including train operators), adequate resources need to be in place across the devolved organisation, starting with strategic planning.

It is essential that route based enhancement planning is devised on a basis that reflects Route territory and markets sensibly. There are currently areas where asset stewardship and strategic planning is managed in two distinct locations and there is consequently a risk of suboptimal outcomes. Equally some key corridors (such as Birmingham to Bristol) do not lend themselves to a tidy strategic plan fit. That said, we look forward to working with the SO to develop the strategic plan for CP6, and particularly for both the East Coast and Great Western Main Lines post 2019 taking into account those CP5 interventions completed by that date.

We note the specific focus given to HS2, given that its integration with the existing network is a challenge. With specific reference to GWR we would be very keen to work with the SO to establish and verify the design and capability of the layout in the Old Oak Common area that will accommodate the proposed station there.

The SO function has a critical role within access planning, and the train service offer to the end-user, FirstGroup's customers. It will need to be suitably resourced to meet the variations in workload, in all aspects of train planning but in particular Short Term Planning and the forward planning of timetable upgrades following investment. Risks exist here, given that engineering access planning appears to reside with the Routes. We hope that the SO continues to work towards a train planning environment where data can be transferred seamlessly between the centre and operators, without the time consuming need to re-enter and check offers, as happens at present. Harnessing technology in this area should make tasks not only easier but more effective at the same time, reducing reliance on outmoded forms of communication.

There must, therefore, be funding included within the settlement for a continuous training programme to ensure that the SO has adequately resourced teams that have the skills required to undertake the roles effectively and efficiently. Coupled with this is a requirement for ongoing investment in system development, using technology to improve capability and processes.

The System Operator also manages the Regulatory and Capacity Allocation duties of NR. We urge the SO to ensure transparency and consistent in the activity carried out the Sale of Access Rights panels. Operators must be permitted to engage appropriately in this process to ensure that service specifications set by Franchising bodies and other aspirations are considered appropriately.

PR18 assumes a separate regulatory settlement for the SO function in NR. This implies an assumption as to the extent to which the SO will be funded for its activities, and where it might recover its costs through fees. This raises the question, at what point in an evaluation of a stakeholder aspiration would the SO commence charging for work? This links to the overall Investment Framework and as noted above, NR's ability to work on schemes that are not part of the core OMR funding. The issue will need careful consideration as, to date, NR has often appeared eager to ask potential funders to finance further development work on proposals, when the information being sought could be readily available if suitably experienced SO staff are engaged. This is particularly important for FirstGroup because our strategic approach involves employing teams to work with stakeholders and potential funders identifying routes for investment in the Network. Given the nature of the third parties with whom we work, additional funding for NR is often not factored into their budgets and it often comes as a surprise, particularly if the scheme is not fully developed. We therefore need NR to be able to work with us and our partners to assess schemes and work on initial development helping to determine viability.

FirstGroup and our companies are happy to discuss these issues further and if that would be helpful please do not hesitate to contact me. In the meantime, FirstGroup looks forward to working with NR's SO in the future.

Yours sincerely

Russell Evans
Policy & Planning Director

Response to ORR's consultation on possible measures of the system operator's performance (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 **21 September 2017**.

Full name	Chris 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.

Question 1 (Chapter 2):

Are there any substantive areas of the SO's activities that you consider are not outlined, and where its performance should be measured?

No, they do seem to be included, but an area for concern is that freight as a GB-wide cross-NR Route border activity is adequately catered for.

Question 2 (Chapter 3):

What are your views on the measures outlined with respect to strategic planning and managing output changes? Are there any additional measures that you think would measure and incentivise the SO's performance in this area?

The measures outlined are accurate but one area that has been of historic concern is the delivery of enhancement projects that affect freight on an end-to-end corridor basis across geographic routes. Measuring the delivery of these enhancements is key.

Question 3 (Chapter 4):

What are your views on the measures outlined with respect to managing the framework for access rights, producing the timetable and use of capacity? Are there any additional measures that you think would measure and incentivise the SO's performance in this area?

Defining capacity and being able to measure it accurately with accurate sectional running times is key for freight.

Question 4 (Chapter 5):

What are your views on the SO management performance measures outlined, and are there any additional measures which you think would measure and incentivise the SO's performance in these areas? We would particularly welcome suggestions on the SO's role in contributing to system safety.

These seem standard but again, measurement for cross-route operators is key.

Question 5 (Chapter 6):

What are your views on our proposed criteria for identifying possible ORR-determined SO measures?

It is important that these obviously have regard to regulatory and customer requirements. Obviously they should be determined with regard to customer inputs.

Question 6 (Chapter 6):

What are your initial views on what measures, if any, ORR should consider setting as ORR-determined measures?

It is important that these obviously have regard to regulatory and customer requirements. Obviously they should be determined with regard to customer inputs.

Any other points that you would like to make
It is vital to remember that freight operates across GB in response to customer demand that can and does change, unlike passenger that is operated to state funder set specifications. Therefore the need for the ability to flex operations is key.

Thank you for taking the time to respond.

Possible measures of system operator's performance

Importance of System Operator

The System Operator (SO) is one of the most important functions within Network Rail – 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.

For Freightliner, the relationship with the SO is one of our most important interfaces with Network Rail. The SO is vital for our success, it:

- Identifies and allocates efficient and high-performing trains paths on the network to respond to changes in customer demand and develop new business.
- Coordinates the possession planning process to ensure national de-confliction and minimise the impact of disruption.
- Plans for future growth – developing proposals for changes to the rail network to accommodate growth.
- Delivers the outputs of enhancement projects are delivered to ensure that the benefits are realised.

Despite the importance of the SO's activities, its role in supporting the industry has traditionally been quite hidden. Therefore we welcome the decision for a separate settlement for the SO in CP6. Turning the spotlight onto the SO enables its performance to be better measured, allowing it to better support and improve industry outcomes.

In previous consultation responses Freightliner has identified opportunities to improve outcomes by investing in systems and developing skills and capabilities to create a centre of excellence. This response considers possible measures of SO performance and the reporting tools which would help support this.

Given the broad range of SO activities, its many customers and the difficulty in objectively and quantifiably measuring some of its activities, it is crucial that the SO's suite of reporting tools allows it to report back on the more qualitative measures where a scorecard or dashboard would not be appropriate.

This response considers the possible measures and the reporting tools in more detail.

<u>Possible measures</u>

SO's activities

The consultation clearly establishes the SO's principle activities. Where previously there was a degree of ambiguity, the SO's activities are well scoped and it appears that the industry has a more mature understanding of the SO's role and importantly those functions of system operation that are performed by other stakeholders, including the Routes. Furthermore the consultation touches on the role that other industry stakeholders have in influencing the SO's activity (e.g. the DfT through the franchising process).

The SO's role in managing the development of the network is particularly well presented in this consultation. From leading the strategic planning process to managing the output changes, the SO's role is clearly scoped at the different stages of project development. This includes contributing to the early stage development of projects, understanding the outputs of different options and ultimately realising the benefits upon completion. Traditionally in this area much of Network Rail's focus has been on the physical delivery of projects, however the SO has a key role to

play in understanding the outputs of different options, ensuring the impact of changes are understood and delivering the benefits upon completion.

For Freightliner the SO's role in managing the allocation and use of capacity is vital for our success. The consultation recognises that this incorporates various activities including the production of the timetable and the SO's role in determining the use of capacity on the network – particularly the identification and allocation of capacity. Although the capacity mix overall is strongly influenced by external parties (including DfT through the franchising processes) the SO plays a key role in ensuring that the timetable is optimal and that capacity is being effectively utilised.

Making best use of existing capacity is particularly important given the financial constraints facing funders. By highlighting that this is a key activity, metrics can be developed to enable the SO to better make the trade-offs that the industry recognises are often necessary between performance and capacity.

Breadth of SO activities

Given the breadth of the SO's activities and the range of stakeholders and customer the measures of SO performance are likely to be wide-ranging. This is evidenced by the long list of possible measures published alongside this consultation.

It is welcome that the ORR has chosen to publish this long-list of possible measures. We recognise that they are still work-in-progress, but we welcome the opportunity to respond at this early stage. In absence of an SO scorecard or draft SO Strategic Business Plan from Network Rail, publishing this list alongside the consultation facilitates further discussion with the ORR and directly with the SO as they begin engagement on draft measures for inclusion in their SBP. It is welcome that the ORR has incorporated suggestions that stakeholders, including Freightliner, have made in response to previous consultations.

<u>**General comments on performance measures**</u>

It is important that the SO's performance measures consider and appropriately balance the SO's activities. We recognise that this will be a challenge given the breadth of activities and the range of stakeholders, particularly given that many of the SO's most important activities cannot be measured quantifiably.

Qualitative measures

Many of the measures of SO performance are likely to be qualitative in nature and will not readily lend themselves for inclusion within a Dashboard and Scorecard. While many of the process measures could be reported via a Scorecard doing so will not provide an understanding of the success and value of that activity to the wider industry. For instance it would be straightforward to capture whether the SO has published its Route Plans to the agreed timescales or published the Strategic Capacity Statement in line with its obligations, but that would not be a measure of the quality of those documents or their value to the industry.

It is important that the qualitative, and more subjective measures, are also captured as they will shine a light on how well the SO is supporting the industry. Freightliner does recognise the challenge in doing this. This will require the SO to consider the range of reporting tools it deploys. If the SO Scorecard or Dashboard are not an effective means of capturing measures of value and success, other reporting tools such as annual reviews and strategic engagement forums need to be considered.

It is not yet clear what the SO reporting tools will include but Freightliner would ask the ORR to consider other ORR-determined SO measures in the event that the SO selected measures do not enable the quality and value of the SO activities to be determined.

SO accountable measures

As highlighted within the consultation document, the SO is not always entirely accountable for the outcome of many of its activities. That could be because other stakeholders or other parts of Network Rail also have a responsibility and it is not possible to disaggregate the SO's role in supporting the process or that there are wider constraints that are present.

For instance the SO would not be accountable if they were unable to identify new strategic capacity assuming that the processes that underpin this SO activity are adequate. This creates a challenge in terms of measurement as in some instances it is not the outcome that needs to be measured but the effectiveness of the SO process. Freightliner believes that consideration of the appropriate reporting tools will be necessary in order to do this effectively. We expect the SO SBP to shed further light on this area.

Appropriate metrics will empower the operators, like Freightliner, to engage with the SO in our role as customer. That's why it is important to select the right metrics and most effective reporting tools. It also necessitates that the SO regards operators (as well as other stakeholders) as their customers and do not consider operators as a customer of the Routes.

Balanced measures

It is important that the SO performance measures balance the range of SO activities and reflect the priorities of all stakeholders. As some activities are more quantifiable and lend themselves for inclusion in a Dashboard or Scorecard there is a risk that these areas are over-incentivised, resulting in an imbalance in the SO measures.

The more quantifiable measures include measures relating to SO-caused delays (e.g. 502a delays) and those measuring to process-related activities. It is clearly more difficult to quantifiably measure the success of a process and the value it has generated. Based on TRL's findings it is also likely to be challenging for the SO to measure how well it is allocating and identifying capacity on the network.

From Freightliner's perspective, capturing those qualitative and more subjective areas are at least an equal, if not higher, priority than reporting on process or the amount of SO-caused delay minutes. Those provide a measure of how well the SO performing and its role in supporting the industry.

Recognising that it will be challenging to capture those qualitative measures within a scorecard we are keen that those measures are not lost. That highlights the importance of the SO considering its reporting tools and the opportunity to capture qualitative measures within an annual review or for discussion at a strategic engagement forum.

It is important that the SO seeks to develop a balanced set of measures utilising a range of reporting tools. This is fundamental if the SO is to be able to trade-off performance and capacity measures successfully – a key part of the rationale behind the regulation of the SO.

In the event that the measures are not successfully balanced Freightliner would expect the ORR to consider possible ORR-determined SO measures to achieve this balance.

Possible ORR-determined SO measures

The consultation asks for views on the proposed criteria for identifying possible ORR-determined SO measures. Freightliner believes that in absence of a draft SBP, without a draft SO Scorecard and Dashboard and prior to understanding the proposed reporting tools it is too early to consider specific ORR measures.

However, in principle we agree with the process outlined in the consultation for developing ORR led-metrics. They should be a) balanced (taking into account breadth of SO activity), b) consider the requirements and expectations of all stakeholders and c) measures where the SO has undertaken limited or insufficient consultation.

These will not be known until the SO shares further thinking in relation to its proposed performance measures within its SBP. Without wanting to second-guess the outputs of the SO's SBP and the proposed measures and reporting tools, Freightliner would expect there could be a need for ORR-led SO measures that measure the more subjective SO activities and shine a light on the value generated by the SO and the success of the SO in supporting the industry. These are the measures that will not easily lend themselves to being reported via a Scorecard or Dashboard.

SO reporting tools

The SO is vital for our success and therefore for Freightliner to engage effectively with the SO we need a direct relationship with the SO. As such we would expect the SO metrics to measure those activities that are important for our success. This is important as it influences both the actual performance measures and the supporting reporting tools.

Route-based SO scorecard

At this stage, prior to the publication of a draft SBP, there is limited clarity on the proposed SO approach in this area. However, Freightliner understands that the SO is exploring the development of Route-based SO scorecards. If this is proposed as a means of disaggregating information in order to avoid the reporting overly-consolidated information that may be helpful, however Freightliner would be concerned if this led to an assumption that our relationship with the SO was to be managed through the Routes.

Our relationship with the SO is vital for our success, so any indication that this relationship is measured via the Routes would be as a concern as this risks impacting on our ability to engage with the SO directly in our role as customer. Such an approach would also risk the SO prioritising its relationship with the Routes over other stakeholders. The Routes' needs are also served by the SO, but they may sometimes have competing aspirations (for example in the balance between capacity and performance) and these need to be balanced against the aspirations of other stakeholders.

Suite of reporting tools

It is likely that a suite of reporting tools will be required to create a balanced set of performance measures that capture both the quantitative and qualitative measures.

Developing Scorecards and Dashboards to capture the more quantifiable areas would be appropriate. However, this should be supplemented by an annual review, ideally supported by a strategic industry-wide SO forum, to provide commentary on the more qualitative and subjective areas. Unlike the other Network Rail Routes it is likely that this detailed commentary will be the most appropriate channel to report on the effectiveness and success of the SO's processes.

Freightliner believes that there is strong merit in consolidating such information within a standalone SO annual review and not disperse it across existing publications. This will keep the spotlight on the SO and help ensure that the industry can work together to improve outcomes.

Specific comments on possible performance measures

Strategic planning and managing output changes

Leading Strategic planning

A number of possible measures are identified in this area, some of which lend themselves to being reported via a Dashboard whilst others are more qualitative.

A process measure that reports on the progress of LTPP studies against planned milestones, as envisaged in A1, would lend itself to a Dashboard or Scorecard. However, such a measure would not track the quality of those studies and the value they provide the industry. To do so requires more subjective measures – as envisaged in A6 or A4. Tracking the value generated by the SO's strategic planning process is important as it provides support for the SO to improve outcomes.

It is important that the measures selected do not drive perverse behaviours. For instance measuring the SO on how much third-party funding it has secured may incentivise the SO to accept investment where such investment is to the detriment of the overall network.

Furthermore, measuring the SO based on the accuracy of its growth forecasts (A5) would not be appropriate. While identified as an SO accountable measure there are many other factors that influence growth and often the forecasts are made on an unconstrained basis. As such it would be difficult to disaggregate the factors to understand the accuracy of the underlying forecast. We would expect that the SO would review the methodology used for the forecasts and to make any necessary adjustments for future forecasts accordingly, however it would be difficult to capture this as a performance metric.

Managing output changes

The SO's role in supporting the selection of interventions to the network is outlined well in the consultation. In the early-stage development of enhancement projects, the SO should play a key role in determining the outputs of different options and maintain oversight of the committed outputs as the projects move through their life-cycles. The SO should be aware of any changes to any assumptions or costs that impact on the ability to deliver the outputs of schemes. Upon completion it is crucial that the benefits of the intervention are realised. This requires that the SO integrates those outputs in the timetable.

The role that the SO has in managing output changes is complex. Different parts of the SO are involved at different stages of the development and delivery of enhancement projects – from LTPP through to capacity planning. Throughout the process though, it is important that the SO maintains a watching brief in the event that there are any changes to the assumptions or scope of the intervention.

Freightliner acknowledges that it will be difficult to capture the SO's performance in respect to this activity. For operators the key is when the ultimate benefits are realised – i.e. when the train service that the enhancement supports (e.g. uplift in number of trains or increase in capability of trains) can start running. We note that this benefit realisation is not directly in the control of the SO. Nevertheless in the event that there is a delay in introducing the enhanced train service there is nothing to preclude the SO from locking in the outputs of the enhancement via the utilisation of Strategic Capacity. Indeed it is good practice that they would do so and that could provide a more quantifiable measure.

It is likely that in order to gauge how well the SO is performing in this area there is the need for an accompanying narrative to supplement any scorecards. This again demonstrates the need for the SO to work with stakeholders to develop appropriate communication channels to consider performance and future stakeholder priorities in order to improve industry outcomes.

Managing the allocation and use of capacity

Access framework

The SO has an important role in supporting the framework for granting access to the network. This includes inputting to SOAR panel, undertaking capacity studies to support access applications and the publication of the Network Statement documentation.

While a Dashboard could measure whether the SO has undertaken a process (e.g. whether the Network Statement and Strategic Capacity Statement have been published) such reporting is unlikely to capture the underlying success and value add of those process. To do so would require accompanying commentary to supplement any scorecard or dashboard.

Identifying Capacity

The separate determination for the SO provides an opportunity to develop a balancing indicator to allow Network Rail to make more informed trade-offs between capacity and performance.   The 2015 ORR consultation on system operation recognised that while cost and performance indicators are currently measured there is no metric which considers how optimally capacity has been allocated. Measuring capacity allocation, and the value of different capacity allocation options, will allow appropriate trade-offs to be made. Without a capacity metric it is likely that performance could be prioritised to the detriment of capacity.

The regulation of the SO provides the opportunity for the creation of a suitable balancing indicator. Freightliner does recognise that developing a suitable indicator in this area will be difficult, however given the key role that the SO plays in the allocation and identification of capacity this is absolutely crucial. As such there may be merit in the SO exploring, and potentially trialling, some of TRL's suggestions or being measured against milestones pertaining to a root and branch programme of capacity optimisation.

Freightliner would expect the SO to provide further commentary on these areas within its annual review and discuss how it has considered any necessary trade-offs between capacity and performance.

Producing the timetable

There are many potential measures identified (see D1 to D17) and this highlights how straightforward it is to quantifiably measure this SO activity. Many of the possible metrics include measuring 502a delay. While measuring performance is necessary it is important that it is not over-represented and there is a risk that because it is more quantifiable it becomes over incentivised.

Freightliner strongly believes that the SO's role in allocating and identifying capacity is more important than its role in overall performance of the network (currently 502a delay is only circa 3.1% of all NR attributed delay) and this highlights the importance of balancing indicators that measure capacity utilisation and identification.

SO management performance measures

Financial Performance

Freightliner supports establishing a separate settlement for the SO within Network Rail's overall determination. It is important that the SO has scope to be able to make investments in people and systems, recognising that optimising the timetable to get more out of the existing infrastructure will be substantially cheaper than investments in new infrastructure.

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

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

Currently operators have very little awareness of the SO's capital investment plans. Given the need to integrate operators' own train planning systems with those of the SO, and the benefits of working collaboratively in the bid/offer process, Freightliner would like greater involvement in this area. Such visibility could be provided through an annual review and supported via a strategic forum between the SO and its stakeholders.

Customer Satisfaction

Freightliner agrees that quality customer service should be central to the behaviour of the SO and it is important that satisfaction is measured. As the consultation notes, the SO's list of customers is extremely broad and at times trade-offs will be required between their competing aspirations. This further increases the challenge of measuring satisfaction as it drives the need for satisfaction to be disaggregated across more than one measure.

Freightliner understands that the SO is in the process of considering the best way to measure satisfaction and that Route-based scorecards are being considered. If this is progressed it is important that the satisfaction of all stakeholders is considered, and given that the Routes' are perceived as a customer of the SO, they should not be perceived as the lead stakeholder of the SO.

Further discussions

Freightliner would be happy to meet to clarify, or discuss further, any of the areas raised in this submission.

Response to ORR's consultation on possible measures of the system operator's performance (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 **21 September 2017**.

Full name	Ian Kapur
Job title	National Access Manager
Organisation	GB Railfreight Ltd.
Email*	
Telephone number*	

*This information will not be published on our website.

Question 1 (Chapter 2):

Are there any substantive areas of the SO's activities that you consider are not outlined, and where its performance should be measured?

GB Railfreight would like there to be a specific measure for improved velocity of freight services over each timetable period. The attached Table 1 specifies some very important aspects of timetabling that are at the heart of GB Railfreight's day-to-day operations and many of these, if applied properly, would lead to improved velocity for freight services, rather than some services getting slower. Journey time improvements for freight are just as important to operators and their customers as passenger JTI.

The inclusion of Strategic Freight Capacity into each Working Timetable is a measure that would show that the industry is serious about protecting capacity for freight on newly enhanced infrastructure funded by freight pots such as the Strategic Freight Network fund.

A measure for the availability of the agreed baseline Network is also badly needed, as mentioned elsewhere in this consultation. Qualitative reporting is both necessary and desirable over several parts of the SO activities.

Question 2 (Chapter 3):

What are your views on the measures outlined with respect to strategic planning and managing output changes? Are there any additional measures that you think would measure and incentivise the SO's performance in this area?

With little money likely to be available in CP6, quantitatively measuring the number of capacity improvements that have been made to a timetable, without any infrastructure enhancement, is going to become ever more important. This does need to take place.

During the first three years of CP5, there have been several projects which were not properly developed in the early stages. This has led to significant cost increases and a reduction in scope and outputs or even the cessation of a project.

Early measurement of a project's development would be useful in indicating its planned progress and whether or not the specified outputs are likely to be possible. A good example of how this has worked, for an enhancement project, is the Felixstowe Branch Enhancement Programme Board's progress tracker (milestones) for the new infrastructure about to be built.

Proper early development, obviously, relies on having people in place who know how to project manage and also manage all suppliers, and their workstreams, so very capable people are an absolute necessity in ensuring a project is managed to time and budget.

Poor delivery of a project, in progress, and the warning signs that can appear, need to be able to be measured. This can take the form of regular business case reviews whereby enhanced spending weakens the Benefit Cost Ratio.

Once of the most frustrating aspects regarding new infrastructure and its capacity outputs is the perceived lack of a link between Network Change (Part G) and Part D of the Network Code. This obsession with a lack of a link has led to new or amended infrastructure having been built and then train operators not having been able to timetable properly over it. Timescales for producing new Sectional Running Times, new headways and improved opening hours (for re-signalling projects) are never properly met and the many improved outputs of a scheme just cannot be realised at the point the project is complete. On some occasions, the revised timetable planning details (for improved outputs) can follow one or two years later.

There has also got to be far more rigour and transparency with regard to what compliant capacity is made available, for passenger and freight services, after an enhancement has been completed. Operators must be able to timetable to/from, and over, newly enhanced infrastructure and all aspects of these enhancements need to be measured.

Question 3 (Chapter 4):

What are your views on the measures outlined with respect to managing the framework for access rights, producing the timetable and use of capacity? Are there any additional measures that you think would measure and incentivise the SO's performance in this area?

Network Rail's Capability & Capacity Analysis Team (approx. 60 people at present) appears to be engaged in many pieces of work examining the effects of capacity on various timetabling scenarios that are likely to appear. This has got to be the vehicle and the way forward for more pro-active engagement with operators regarding the way forward on capacity choices.

There needs to be recognition that, going forward, this type of work will become far more important, and be needed more quickly, to inform timetabling and investment decisions. Freight operators have a large amount of experience in finding new capacity along with "tidying up" schedules around proposed new pathways.

Some more pro-active work in optimising timetables is regularly going to be needed in order to make best use of available capacity. Also, more realistic and useable Strategic Freight Capacity would be an ideal tool for making better and easier use of available capacity along a line of route.

GB Railfreight welcomes the use of any new data strategy that minimises incorrect data input and transfer, and which could remove the need for TPRs and SRTs. "One version of the truth" would be bliss.

Given that the outputs of Network Rail's Sale of Access Rights Panel (SoAR) have been slower than needed by operators, and inconsistent over several cases, GB Railfreight believes that more rigour in monitoring and regulating Network Rail, in this activity, is required.

The ORR approval of operators' access rights submissions, with the relevant Network Rail input into the process, needs to be a straightforward process and one carried out in a timely manner, and far more quickly than is currently the case. The granting and giving up of access rights should be day-to-day routine work.

Swift and clear results for access rights applications are needed so that Freight Operating Companies can make quick investment decisions and understand the risk to these decisions over the life of their long-term track access contracts. Currently, there is too much risk on FOCs due to indecision and the very slow progress of access rights applications. Scorecard measurements and, perhaps, something more rigorous than that needs to be in place.

Question 4 (Chapter 5):

What are your views on the SO management performance measures outlined, and are there any additional measures which you think would measure and incentivise the SO's performance in these areas? We would particularly welcome suggestions on the SO's role in contributing to system safety.

The Customer Satisfaction aspect is very high on GB Railfreight's assessment of Network Rail, as a supplier, and will also be so for the System Operator part of the company. The current "Pulse Checks", sent out by FNPO Route each quarter, are a good way of measuring general aspects. A similar tool could have sufficient weighting, as necessary, with the score then feeding into the more specifically scored measures. This allows us the opportunity to offer some qualitative feedback in addition to the quantitative results received by scoring against the several set questions.

Question 5 (Chapter 6):

What are your views on our proposed criteria for identifying possible ORR-determined SO measures?

GB Railfreight agrees with the proposed measures listed.

Question 6 (Chapter 6):

What are your initial views on what measures, if any, ORR should consider setting as ORR-determined measures?

GBRf will most likely develop a more valuable response to this question once further detail has been shared on the System Operator's Strategic Plan. It is highly likely that many of these views will be shared throughout the consultation process.

Any other points that you would like to make

Thank you for taking the time to respond.

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

20 September 2017

Dear David

PR18 Consultation

MTR Crossrail welcome the opportunity to comment on the ORR consultation to inform policy development for Network Rail Control Period 6 (PR18). We have provided our comments below:-

Scorecards

MTR Crossrail supports in principle the concept of Route Scorecards.

Network Rail Anglia Route has recently introduced a Scorecard for MTR Crossrail, although this is in its infancy and some of the measures are still in discussion and have not been fully developed.

MTR Crossrail currently operates services on Anglia Route but in due course we will also operate on Western Route and will run parallel to the Southeast Route at Abbey Wood. We have some concern as to how Scorecards will be aligned between routes and the national 'System Operator' function.

Whilst we understand the reasons for 'benchmarking' and encouraging 'competition' between Routes, MTR Crossrail needs a degree of consistency across the Network Rail routes.

We would also like to understand how CP6 funding will be aligned with measures agreed in Route Scorecards and what will happen in the event of a target set in a Scorecard not being sufficiently funded or resourced.

The Scorecard measures put in place need to reflect the operations of the route in question and the requirements of the train operators that run on the route.

It would be helpful if the ORR could provide greater clarity as to how it will decide the appropriate action to take in the event of Network Rail targets not being met.

Consideration also needs to be given to train services that run on/off the Network Rail network – for example, MTR Crossrail will be operating services that run from Network Rail to Rail for London Infrastructure, and then back onto Network Rail infrastructure again. It is important that whatever route-level regulation is put in place, it encourages Network Rail to work with other infrastructure managers or local transport authorities to ensure that through services operate well.

MTR Crossrail (and the MTR Corporation) are keen to invest in the rail infrastructure in the UK, but our efforts to date have been frustrated due to the governance associated with funding and financing rail investment through Network Rail. We would welcome a Scorecard measure that is linked to third party investment in Network Rail infrastructure.

Overall Framework for Regulating Network Rail

MTR Crossrail supports in principle the concept of Route Scorecards, although we have some concerns as detailed above.

In particular we are keen to make sure that Network Rail is sufficiently funded to meet the targets that have been set by Crossrail (for example MTR Crossrail has a target of 95% PPM) and that these are funded and deliverable across all of the relevant Network Rail routes.

We would expect the ORR to step in and take appropriate action should Network Rail not deliver on some key targets included in the Scorecard.

Systems Operator Performance

We remain concerned about the disconnect that we sometimes see between planning undertaken at a Route level and planning undertaken centrally as part of the System Operator function.

Whilst we understand and support the concept of a 'System Operator' we are concerned that this will prevent the 'System Operator' function from developing a close working relationship with the Network Rail routes, and therefore providing a consistent and 'joined-up' position to train operators.

We have been disappointed that a number of 'System Operator' led projects in CP5 have not resulted in material benefits, in particular projects related to Access Planning and improvements to the Timetable Planning Rules.

In addition we would like to see greater transparency in CP6. For example the Network Rail Sale of Access Rights (SOAR) panel is not open to train operators and as a result there is a risk that decisions will be made without understanding all of the implications associated with a timetable change (for example; efficient rolling stock and train crew diagramming and the impact on customer experience). A more transparent, inclusive, consistent, risk based process may be more appropriate in CP6.

Planning of an integrated transport system in London is complicated, with several infrastructure managers (IMs) involved, including London Underground Limited (LUL), Network Rail, High Speed 1 (HS1), Heathrow Airport Limited (HAL) and Rail for London Infrastructure (RFLI) as well as several Network Rail routes. The Network Rail System Operator function also needs to integrate with the other IM's in London.

The timetable development process can be over-complicated, slow and labour intensive. The timetable process needs to be more dynamic supported by a closer working relationship between Network Rail and operators. The ability to quickly simulate the impact of a timetable change needs to be available. MTR Crossrail is taking some initial steps to help with integration, such as adopting the ITPS planning system that is used by Network Rail.

There does not seem to be a common understanding of how congested each part of the network currently is – or in other words how much of the capacity is currently used, how much is available for new services and what the impact is on train performance as more capacity is utilised.

There needs to be a more detailed understanding of network capability and a consistent way of measuring capacity and modelling performance. This should also identify where capacity is not efficiently utilised - perhaps due to the type of rolling stock, length of trains, stopping patterns or other timetable constraints. It may be appropriate to charge a premium to operators that do not use capacity efficiently (i.e. an operator wanting to depart at a certain time). This in turn should help with making informed decisions at the SOAR panel.

The process could also identify timetable, rolling stock or infrastructure enhancements that could release additional capacity in the future.

Consideration should also be given to service recovery in the event of an operational incident to make sure that capacity is prioritised appropriately, including the implications on other Routes.

We therefore encourage the 'System Operator' Scorecard to take into account these issues.

We look forward to working with ORR, Network Rail and other industry colleagues to inform the development of the strategy for PR18.

Yours faithfully

Mark Eaton
Concession Director
MTR Crossrail
63 St Mary Axe, London, EC3A 8NH

mtrcrossrail | ✳

Network Rail's response to ORR's consultation on possible measures of System Operator performance (PR18)

21 September 2017

Executive Summary

We welcome ORR's support for the key role that the System Operator (SO) plays in the 'effective planning, operation and coordination of the rail system'. We support the approach being proposed in terms of measuring the delivery of SO specific activities and business management performance to provide assurance that the SO is efficiently fulfilling its role and delivering for its customers and stakeholders.

Development of the regulatory framework for the SO is a critical part of the overall framework for CP6. It is important that the SO is able to play a strong role in developing strategies that enable the railway to continue driving economic value. This will require a clear regulatory framework, with agreed measures that support increasing economic value, as well as clarity on the roles of funders and ORR in relation to enhancements, which we mostly expect to be funded separately from PR18

We recognise that the SO will need to report transparently on its performance and we are continuing to develop our capability in this area throughout the remainder of CP5.

It is important to recognise that a significant proportion of SO activity does not lend itself to quantitative measurement and reporting. We will therefore use supplementary reporting mechanisms for more qualitative aspects of our delivery and those that require narrative context. Due to the complexity and nature of the SO's outputs, it is likely that Customer Satisfaction will be a key measure in demonstrating the quality of SO activity.

We recommend a key principle for determining measures of the SO's performance is that only activities within the SO's sphere of accountability be measured on its scorecard in order to understand how well the SO is performing. SO activities frequently feed into the delivery of system operation outputs, and we will continue to work with our stakeholders to develop the role of the SO in facilitating the reporting of system operation activities and measures.

It is also noted that there are areas where the SO is dependent on others for its success. When developing measures, they should be clearly defined and focused on the SO's activities rather than those of others.

We strongly believe that the SO should be incentivised to deliver for the needs of its customers and stakeholders at local, regional and national levels, adding value and exceeding expectations. We will continue to agree a bespoke basket of measures with each customer, with flexibility to change these in line with their priorities.

The SO faces a specific challenge from Transport Scotland's HLOS published in July 2017 for ensuring whole-industry client and sponsor activity is delivered in Scotland and this will need to link to outcomes. We welcome further discussion with ORR on how the requirements of different statutory funders will be regulated in CP6 to ensure the harmonisation of outputs and integration with the SO business plan.

We will set out, in our Strategic Business Plan and supporting documentation, our proposed SO functional scorecard, including the measures within it and the regulatory status we recommend that they have. We will also describe the governance that we are proposing to develop with our customers and the supporting route and SO scorecards which will clearly demonstrate delivery against our customers' priorities.

We have provided detailed comments on ORR's proposed list of measures in the Annex to our response.

We are mindful that the SO's scorecard should focus on core priorities and therefore we would not propose that we include multiple measures of performance for the same area of the scorecard. In this response we have highlighted the measures which we support in principle and provide full commentary against all of ORR's proposed measures of the SO's performance is included in the Annex. We intend to continue to engage with ORR and our stakeholders to agree the most suitable measures for inclusion on the SO scorecard.

Question 1 (Chapter 2):

Are there any substantive areas of the SO's activities that you consider are not outlined, and where its performance should be measured?

We consider that all areas of the SO's activity, as described in the operational model, have been covered in the consultation document, and that the long list of potential metrics and measures has been structured around this.

Question 2 (Chapter 3):

What are your views on the measures outlined with respect to strategic planning and managing output changes? Are there any additional measures that you think would measure and incentivise the SO's performance in this area?

We are pleased that ORR recognises that scorecard measures of the SO's performance should reflect the revised approach to long term planning. In this context, we are developing a proposal that would see the development of a SO annual programme for Modular Planning with our customers, funders and stakeholders.

We support the principle of measuring our progress against milestones for long term planning process (LTPP) studies within our scorecard as this is a quantitative measure which the SO is accountable for. We do not believe that this measure reflects the quality of LTPP outputs, therefore should be considered alongside relevant qualitative information to provide a robust narrative. As much of our activity in this area is in response to funders', stakeholders' and third parties' priorities, we believe that it is important to the long term value of this measure that there is a resilient change control mechanism for milestones. Fixed milestones without such a mechanism could drive the wrong behaviours when we are required to respond to change in our customers' requirements. The ability to manage changes to milestones through a robust and transparent process will be required to ensure that Network Rail is not held accountable for factors outside its control, for example where stakeholder priorities have changed and a milestone is no longer relevant. Additionally, Network Rail would need to consider how best to use this measure alongside a possible modular approach to the LTPP in the future. We anticipate this approach will be more agile and responsive to stakeholder needs and thus likely to lead to a more fluid milestone plan.

We also support the proposal for measuring the consideration of non-infrastructure solutions within strategic planning documents. The SO currently considers non-infrastructure solutions first as part of strategic planning activity. We recognise the need to bring greater transparency and evidence to the way in which this is done, and will continue to engage our stakeholders to understand how this can be achieved.

As a significant proportion of SO activity does not lend itself to quantitative measurement and reporting, we intend to use supplementary reporting mechanisms for more qualitative aspects of our delivery and those that require narrative context. Customer Satisfaction will be a key measure in demonstrating the quality of SO activity, and we therefore support the proposal to measure satisfaction with the LTPP within our scorecards.

We agree that the SO is accountable for the early development of projects and understanding when benefits of projects will be achievable. We believe that the SO needs to consider whether scorecard measures should be included for specific projects, or reflect aggregated, programme-level progress. We believe that measuring the realisation of benefits could incentivise the SO to ensure that change control processes are robust, and that the benefits of enhancements are assessed after scheme completion.

We also agree that the SO is accountable for progress in improving its capability in leading the development of projects, but propose that this measure would only be relevant if the SO's strategic plan (as consulted with our stakeholders) commits to delivering an improvement plan in this area.

Question 3 (Chapter 4):

What are your views on the measures outlined with respect to managing the framework for access rights, producing the timetable and the use of capacity? Are there any additional measures that you think would measure and incentivise the SO's performance in this area?

The SO's role in managing the Sale of Access Rights framework will be made more transparent through the provision of supporting process documentation and accountabilities. A programme of work to investigate ways in which the process can operate more efficiently is currently under way which will enhance this transparency throughout CP6. Ways of representing this on a scorecard will be considered although it is possible that reporting in this area will need to be by an annual narrative. We agree that the SO will be accountable for providing advice to ORR on track access decisions and propose that any measure in this area would benefit from the SO and ORR agreeing a process for the provision of relevant information.

The SO's role in managing the capacity of the network as a whole is complex, needing to balance a large number of factors, including the differing aspirations of passenger and freight operators, as well as both journey time and performance. It is our view that a numeric measure of how we make best use of network capacity is not meaningful, but a more qualitative approach to describing how we are performing in this area would be appropriate.

We agree that the SO is largely accountable for the production and the quality of the timetable, but believe that some of the measures proposed by ORR could also be influenced by routes and operators. We believe that any scorecard measures in this area should encourage maximum benefits to our customers and end users.

Question 4 (Chapter 5):

What are your views on the SO management performance measures outlined, and are there any additional measures which you think would measure and incentivise the SO's performance in these areas? We would particularly welcome suggestions on the SO's role in contributing to system safety.

SO management performance measures will be proposed and owned through our management team and appropriately consulted through the governance process that will be in place in CP6.

We intend to align management performance measures with our national scorecard framework to measure safety, financial performance and possible measures of customer satisfaction. We believe that scorecard measures in these areas should provide transparent explanation for our business decisions to our stakeholders.

As stated previously and in our responses to ORR's overall framework and route requirements consultations, we do not believe that scorecards should be all things to all people, as their value lies in providing a clear, core set of priorities against which we assess our performance.

Question 5 (Chapter 6):

What are your views on our proposed criteria for identifying possible ORR-determined SO measures?

As far as possible, our aspiration is for the SO scorecard to represent our core priorities for the current and future success of the SO. We believe that these should be agreed between the SO and its stakeholders. We recognise that ORR has a role to review our proposed scorecard to ensure that longer term requirements of the network are considered amongst our core priorities.

We agree with ORR's view that other tools beside the SO scorecard are likely to be important in enabling the SO to report on performance, as it will not always be appropriate to measure the SO's performance through a quantitative assessment. We strongly support ORR's proposal to not initially specify any measures, as we intend to work with our customers and stakeholders to develop a scorecard which provides an appropriate assessment of the SOs performance.

We accept that ORR will review the proposed SO scorecard measures and the explanation we provide in our strategic plan. We would welcome continued engagement with ORR and our stakeholders for the development of our scorecards.

Question 6 (Chapter 6):

What are your initial views on what measures, if any, ORR should consider setting as ORR-determined measures?

As set out in our response to question 5, we intend to engage with our stakeholders to develop a SO scorecard which appropriately assesses the SO's performance in line with its commitments for CP6. We do not believe that it will be necessary for ORR to determine any specific measures beyond those that we agree with our customers and stakeholders.

ANNEX

NetworkRail

SO activity*	SO's role	Possible SO performance measure		SO accountable (for performance with respect to this measure)?	Quantitative metric (unlikely to require commentary to understand it)?	Commentary		High level Comments relating to the SO functional scorecard

Table 1: Possible measures of the SO's performance against its (specific) activities

System Operator comments

Strategic planning *i.e. Considering the future requirements of the network and identifying solutions (including non-infrastructure solutions) to address constraints and to inform choices for funders*	Lead the long-term planning process	A1	Progress against planned milestones for LTPP	✓	✓	- The SO is accountable for meeting the LTPP milestones - The measure would be quantitative (e.g. proportion of milestones met) - The measure doesn't reflect quality of the LTPP outputs - Network Rail would need to consider how any future modular approach to the LTPP might work with this	We will develop an annual programme for Modular Planning with our customers, funders and stakeholders and share these milestones on our scorecard. The Modular Continous Planning process will need to be flexible and may include funder milestones with regards to key commitments. A change control mechanism will be necessary. A seperate metric for Scotland may be appropriate given the devolved funding arrangement.
		A2	Number of capacity improvements identified which don't require infrastructure investment (e.g. operational solution)/only requires a minimal investment (e.g. less than £1m)	✗	?	- The SO is not (solely) accountable for delivery against this measure - Although a number could be attributed to this, this would have more meaning when supported with commentary and explanation - It could encourage low cost solutions - It may be difficult to measure in practice and could be subject to gaming - It may give rise to perverse incentives, if it encourages the SO to disproportionately favour small-scale investments which deliver fewer cumulative benefits than a single large scheme	There are two elements to this; improvements which do not require investment (e.g. review of line speeds identified as part of considering investment) and ones which stem from the structure of the timetable. The former is considered as part of the strategic planning carried out by industry and led by the System Operator. There are new roles within System Operator to identify currently under-utilised capacity on the network through the timetable. This element of the measure may also overlap C6 and C7. A numeric measure of the number of opportunities identified would be of limited meaning without supporting information relating to value for money / alignment with strategic fit / deliverability and risks driving unhelpful behaviours.
		A3	Demonstrable consideration of non-infrastructure solutions within all strategic planning documents	✓	✓	- The SO is accountable for producing long term planning documents - It could be expressed quantitatvely, e.g. the number of documents lacking such a discussion - It could address stakeholder concerns that the LTPP favours capital / infrastructure solutions over operational solutions	Our Strategic Planning processes are designed to look at non-infrastructure solutions first. This does not lend itself to scorecard measurement however we are committed to being transparent on our strategic planning work so that stakeholders can see how this is considered.
		A4	Stakeholder satisfaction with LTPP (e.g. by way of a survey and comparison among market/route studies)	✓	✓	- The SO is broadly accountable for stakeholder satisfaction with the LTPP process - This measure would be quantiative (e.g. level of stakeholders saying they are 'satisfied' or 'very satisfied') - Stakeholder satisfaction for each LTPP could be assessed by way of comparative competition, given that it is repeated for different parts of the network and by different SO teams - It should focus on satisfaction with the process/engagement rather than the final result, but there is a risk that the two could become conflated	Our documents are widely consulted on and currently endorsed by ORR. There is the potential to focus on customer engagement in, and satisfaction with, the process, rather than the outcomes, given the SO has to balance the aspirations of a wide range of customers and stakeholders. We would need to be careful how we gathered stakeholder feedback. Customer engagement / satisfaction will be a key measure on our scorecard.
		A5	Accuracy of forecasts contained within the LTPP, e.g. growth forecasts	✓	✗	- The SO produces these forecast, but it would be unrealistic to expect it to be correct all the time (given wider socio-economic factors determining rail use and other factors it cannot predict) - The measure would be largely non-quantitative; it would require some explanation to be meaningful e.g. assumptions could be the most appropriate at the time, but the end result could be different to the final reality due to unforeseen circumstances - It would be best assessed and measured over the longer-to-medium term and would be a lagging measure	We use scenario-based forecasting - four scenarios for the LTPP, therefore there is therefore no single forecast to track against. We are intending to start forecasting more regularly in response to changes in actual demand, future drivers and our understanding of how drivers affect behaviour. This will be strategic planning business as usual.
		A6	Quality of LTPP outputs	✓	✗	- The SO is accountable for the quality of outputs. However, it is difficult to assess given the long time scales and substantial uncertainties; LTPP studies are not expected to be perfectly correct though assumptions should be reasonable, accurate and transparent - The measure would be non-quantitative - It could be assessed by independent consultants and/or by stakeholder feedback and reviews (including by way of comparison among market/route studies and against agreed best-practice) - However, assessing quality of the outputs may be difficult, given risk of subjectivity and long lead in times - There could be some cost implications, so a proportionate approach would be required (e.g. review of only a sample of projects or those that meet certain criteria)	Peer reviews of the quality and appropriateness of our LTPP outputs could be useful in order to promulgate best practice. Reviews by independent consultants as standard are not considered value for money or more useful than peer reviews in this respect.
	Recommend projects for changes to the network	A7	Scale of the funding secured by the SO for enhancement projects	✗	✓	- The SO is not accountable for delivering funding; funding availability is determined by governments - This measure would be quantitative (e.g. level of funds secured), but wouldn't have a clear meaning unless supported by qualitative analysis - This measure could create a perverse incentive for the SO to try and secure funding at any cost (e.g. by overstating the benefits of the proposed projects). Instead, the SO should focus on providing quality analysis so that funders can make informed decisions.	We would not support this as a measure of the System Operator. We have a responsibility to manage public money and make recommendations that are value for money to inform funding choices. As recognised in earlier suggested measures, enhancement projects may not always be the best way to obtain value for money.

SO's LONGER-TERM ROLE IN ENHANCING THE NETWORK

SO activity*	SO's role	Possible SO performance measure		SO accountable (for performance with respect to this measure)?	Quantitative metric (unlikely to require commentary to understand it)?	Commentary	High level Comments relating to the SO functional scorecard

SO's LONGER-TERM ROLE IN ENHANCING THE NETWORK

Strategic planning *i.e. Considering the future requirements of the network and identifying solutions (including non-infrastructure solutions) to address constraints and to inform choices for funders*	Recommend projects for changes to the network	A8	Proportion of enhancements funded which had previously been included in the LTPP	✘	?	- The SO is not accountable for selecting which projects progress, as those decisions are made by funders. - This measure would be quantitative (e.g. expressed in a % term), but wouldn't have a clear meaning unless supported by qualitative analysis - If enhancements are primarily progressed from the LTPP, this might indicate that the SO is providing quality analysis and is respected. However, this may be quite an indirect measure	Although we could draw a line between LTPP and the eventual funding, development and building of on-network enhancements, this may not be appropriate to quantify. It focusses too much on building things rather than getting the right outcomes. There could potentially be a large time lag between LTPP choices and funding decisions. Funders choices may also be driven by broader public policy considerations. A measure in this area could drive behaviours to make recommendations through our long term planning that are more conservative if we are driven by the perceived likelihood of securing funding.
		A9	Scale of third party funding secured by the SO	✘	✓	- The SO is not solely accountable for securing third party funding; routes also play a role. Wider socio-economic issues would also be relevant here. - This measure would be quantitative (e.g. level of funds secured) but would benefit from some explanation of what the SO did to help secure funding - Commercial agreements with third parties funding enhancements may not be suitable for publication - There could be a perverse incentive associated with this if the SO attempts to secure funding for projects which meet the needs of third party investors, but not the network as a whole (e.g. a new station could increase journey times for other users)	There is a danger that this could drive the wrong behaviours given the System Operator's role of ensuring strategic fit of enhancements to the network.
		A10	Delivery of milestones against an improvement programme relating to the SO's capability in this area (if included in its strategic plan)	✓	✘	- The SO would be accountable for this measure - The measure would be quantitative - Reflecting likely difficulty in assessing this activity, a measure could focus on the SO's role in developing a capability-based measure over CP6 that assess its effectiveness (assuming the SO considers it appropriate to do so)	Where we identify clear capability improvement programmes, we will reflect the milestones associated with these as appropriate within our scorecard structure.
Managing output change *i.e. Working with funders to manage where and how changes are made to the network, including informing franchising authorities' decisions about how the network is used*	Lead early-stage development of enhancement projects and coordinate inputs into industry advice	B1	Progress against planned milestones for development of projects e.g. against relevant Memorandum of Understanding (MoU) milestones or relevant GRIP stages	✓	✓	- The SO is accountable for the early development of a project, including timely development - The measure would be quantitative (e.g. proportion of milestones met) - Consideration would need to be given to whether the measure captures specific projects or reflects aggregated, programme-level progress. Network Rail currently reports on a project-by-project basis. This could be reported differently at different levels (e.g. aggregated nationally or programme specific at a route level)	We will reflect milestones associated with programmes of work for which we have committed funding within our scorecard. It will be important to incorporate a change control process to accommodate changes in relation to funding decisions.
		B2	Quality of the early-stage development of projects	✓	✘	- The SO is accountable for this measure - The measure would be non-quantitative; it would require some explanation to assess the SO's role in this area - It is likely to be difficult to assess the quality of the SO's work in this area. It could be assessed by independent consultants or by way of comparison amongst other reviews - There would be cost-implications so a proportionate approach would be required	Peer reviews of the quality and appropriateness of our early stage development of projects could be useful in order to promulgate best practice. Reviews by independent consultants as standard are not considered value for money or more useful than peer reviews in this respect.
		B3	Delivery of milestones against an improvement programme relating to the SO's capability in leading the development of projects	✓	✓	- The SO would be accountable for this measure - The measure could be quantitative (e.g. the SO's progress in implementing improvements or delivering certain benefits) or qualitative - A measure here would be subject to the SO's strategic plan/delivery plan committing it to undertaking an improvement plan in this area	Where we identify clear capability improvement programmes, we will reflect the milestones associated with these as appropriate within our scorecard structure.
	Track funding and output commitments at portfolio level and manage formal change control processes with funders and ORR	B4	Proportion of Enhancement Delivery Plan change controls attributable to the SO's failings (e.g. poor analysis relating to timetable implications)	✓	?	- The SO would be accountable for this measure - The measure could be expressed quantitatively, but it is likely that it would benefit from supported commentary - It would be very difficult to identify objectively in all cases whether the SO was accountable for the project's failing	We do not support this as a scorecard or narrative measure of our performace. Where there are issues with the end-to-end process, these will be picked up by specific measures of our business performance, and should not be duplicated through the change control process. Change control can also be positive and lead to improvements. We will consider how to monitor change control applications to identify themes in reasons for change.
		B5	Proportion of Enhancement Delivery Plan change controls attributable to broader Network Rail failings (e.g. poor delivery)	✘	?	- The SO is not accountable for delivery of enhancements - The measure could be quantitative or qualitative, but it is likely that it would benefit from supported commentary - This is currently reported alongside the Network Rail Monitor (giving rise to risk of duplication?), and it may be more appropriate for Network Rail to report on this direct to funders rather than as part of the scorecard - It may encourage the SO to work across Network Rail to deliver enhancements	We do not support this as a scorecard or narrative measure of our performace. This would also, presumably, be duplicating measures of performance and capability in other areas of Network Rail.
		B6	Accuracy of the Enhancements Delivery Plan i.e. number of incorrect outputs or milestones	✓	?	- The SO is accountable for maintaining the accuracy of the Enhancements Delivery Plan - It could be quantitative or qualitative, but it is likely that it would benefit from supported commentary - It could encourage the SO to submit and explain relevant change controls, rather than simply reporting a variance. Customers rely on the accuracy of this information to inform their business planning - As above, it may be more appropriate for Network Rail to report on this direct to funders rather than as part of the scorecard	Accuracy of different elements of the EDP is owned by different parts of Network Rail dependent on the programme of works.

SO activity*	SO's role	Possible SO performance measure		SO accountable (for performance with respect to this measure)?	Quantitative metric (unlikely to require commentary to understand it)?	Commentary	High level Comments relating to the SO functional scorecard
Managing output change *i.e. Working with funders to manage where and how changes are made to the network, including informing franchising authorities' decisions about how the network is used*	Track funding and output commitments at portfolio level and manage formal change control processes with funders and ORR	B7	Extent of impact of enhancements on maintenance and renewal projects across the portfolio (e.g. impact on access and/or availability of equipment)	✗	?	- The SO is not (solely) accountable for enhancements - It could be quantitative or qualitative, but it is likely that it would benefit from supported commentary - It is likely to be very difficult to measure the impacts in this area - As above, it may be more appropriate for Network Rail/the SO to report on this direct to funders rather than as part of the scorecard - This information is already captured as part of enhancements business cases, so there would be a question about whether there is any value in aggregating - May encourage the identification of synergies to minimise impacts from enhancements, e.g. tagging onto existing renewals	Instead of extent of impact maybe we could measure interface with renewals (and maintenance) and opportunities to align enhancements with renewals programme. This could be detailed in the business case under phasing options. We therefore could measure: - Phasing options presented to funders. - Where schedule opportunities/conflicts are identified with renewals (and maintenance) - Interface meetings with the different disciplines inc RSPG/RIRG
		B8	Delivery of milestones against an improvement programme relating to the SO's capability in acting as the internal 'client' for projects	✓	?	- The SO would be accountable for this measure - The measure could be quantitative (e.g. the SO's progress in implementing improvements or delivering certain benefits) or qualitative - A measure here would be subject to the SO's strategic plan/delivery plan committing it to undertaking an improvement plan in this area	Where we identify clear capability improvement programmes, we will reflect the milestones associated with these as appropriate within our scorecard structure.
		B9	Average benefit-cost ratio of any enhancements proposed from ring fenced funds	?	?	- The SO is not entirely accountable for this, as other parties can propose or select projects - The measure could be expressed quantitatively, but would need context and commentary to be a useful measure of the SO's performance. - A high benefit cost ratio is not a necessary indicator of a good project, as it won't include strategic or socio-economic cases - This measure could create a perverse incentive to inflatlate the benefit cost ratio of projects, rather than providing accurate advice, which should be its priority	Whilst we do not support this as a scorecard measure, we will consider the benefit it would add to a narrative report, if there are ring-fenced funds in CP6.
		B10	Variance between forecast benefits of an enhancement (including any change control) and the final benefits realised after completion	✓	✗	- The SO is accountable for owning and understanding the business case of a project, including confirming its ongoing viability as change occurs - The measure would not be quantitative - Forecast benefits could include additional train paths, punctuality improvements, journey time improvements etc. - It could incentivise the SO to ensure that change control processes are robust, and that the benefits of enhancements are assessed after scheme completion - It is unlikely to be possible to express this as a single number, but there could be a justification for a project completion/benefits realisation report	The System Operator is accountable for the delivery of outputs associated with a programme of works, not the benefit realisation (which may depend on other industry parties). Given the length of time from development to completion on a project change control may be inevitable as the project develops. Consideration should be given to decisions made by others that change the scope of that from which the original benefits were calculated. Whilst we do not currently support this as a scorecard measure, we are considering how a more qualitative description could bring benefit in a narrative report.
		B11	Timeliness of benefits delivered according to the plan (including any agreed change controls)	✓	✓	- The SO is accountable for realising the benefits of a project, and understanding when those benefits will be achievable - The measure could be quantitative (e.g. average number of days variance between forecast benefit realisation date and actual realisation) - It could incentivise the SO to ensure that change control processes are robust, and that the benefits of enhancements are assessed after scheme completion	See B10.
		B12	Compliance with the network change process (i.e. maintenance of network change documentation)	✓	✓	- The SO is accountable for the network change framework, though implementation of network change sits with the project sponsor (which may be outside the SO) - The measure could be quantative (e.g. extent of compliance, number of breaches) - It may encourage the SO to work more closely with project sponsors in other business units to ensure compliance with its network change framework	Whilst the System Operator owns the Network Change process within Network Rail, the accountabilility for following the process lies with the sponsor of each individual project.
		B13	Delivery of milestones against an improvement programme relating to end to end planning	✓	✓	- The SO would be accountable for this measure - The measure could be quantitative (e.g. the SO's progress in implementing improvements or delivering certain benefits) - A measure here would be subject to the SO's strategic/delivery plan committing it to undertaking an improvement plan in this area	Where we identify clear capability improvement programmes, we will reflect the milestones associated with these as appropriate within our scorecard structure.
		B14	Accuracy of the sectional appendix (e.g. number of errors identified by operators)	✓	✓	- The SO is responsible for ensuring that the published information about the network is correct, as operators rely on this to inform their decisions - The SO would not be responsible if the capability of the network degrades over time, as the routes own and maintain the physical assets	The System Operator is not accountable for the accuracy of the sectional appendix and therefore we do not support this as a scorecard measure.
	Inform the franchising authorities specifications, and advising on bids and their implications for train services	B15	Progress against franchising authorities' milestones relating to the SO input	✓	✓	- The SO is accountable for meeting its particular milestones under the franchising authorities' processes - The measure would be quantitative (e.g. proportion of milestones met) - The measure would require milestones to be agreed in advance, or for a service level agreement, possibly as part of an agreed Memorandum of Understanding, to be in place	We will include programme milestones for the System Operator's input to the franchise process on the scorecard. It will be underpinned by clear assumptions of the requirements for our inputs.
		B16	Variance between the advice provided by the SO to franchising authorities and the final train service agreed (or something similar to this)	✗	✗	- The SO is not accountable for franchising authorities' decisions. However, measures in this area might provide some transparency over the rationale for franchising authorities' decisions which, in turn, could provide added incentive on all parties to make evidence-based decisions - The measure would require commentary to explain the nature or reason of any differences - How to determine the variance would require further consideration	We do not support this as a scorecard measure. The Decisions made by franchising authorities are a matter for the relevant franchising authorities.
		B17	Quality of advice provided to franchise authorities	✓	✗	- The SO is accountable for the advice it provides to franchising authorities - The measure would be qualitative, requiring commentary about the role/impact of the advice - In providing for increased transparency over the advice provided, it may strengthen the SO's incentives to produce effective information and advice - It is likely to be difficult to assess the quality of the SO's advice, given the degree of subjectivity e.g. review by external consultants - There would be cost implications so a proportionate approach would be required	We do not support the use of external consultants in assessing the quality of advice provided to franchise authorities. We will seek to understand how satisfied franchise authorities are with the quality of advice that we provide and this would be seen through a customer satisfaction measure.

SO's LONGER-TERM ROLE IN ENHANCING THE NETWORK

SO activity*	SO's role	Possible SO performance measure	SO accountable (for performance with respect to this measure)?	Quantitative metric (unlikely to require commentary to understand it)?	Commentary	High level Comments relating to the SO functional scorecard
Manage access rights framework *i.e. the SO plays a key role in managing the allocation of capacity over the medium-term and providing information to industry about its use over the medium-term*	Information provision regarding availability and use of strategic capacity	C1 Quality of advice regarding availability and use of capacity (including Network Rail studies)	✓	✗	- The SO is accountable for this measure - The measure would not be quantitative - It could be assessed by independent consultants and/or against best-practice. Here, the emphasis would be on the SO's processes in developing and providing this information rather than how the capacity is actually used - There would be cost implications so a proportionate approach would be required	We do not support the use of external consultants in assessing the quality of advice provided by the System Operator. Customer Satisfaction and engagement will be shown on our scorecard and we would seek to understand if they are content with the quality of the advice they receive and the transparency of the analysis and process undertaken to underpin the advice.
		C2 Level of available strategic capacity across the network and its change over time	✗	?	- The SO is not solely accountable for tether actual levels of available strategic capacity - The measure is not entirely quantitative. It would most likely be done on a qualitative basis as part of a report which could describe the situation more clearly (reflecting difficulty in reporting on availability/use of capacity) - It may create a risk of perverse incentives if the SO is overly focused on identifying/making available a particular type of capacity - There would be cost implications so a proportionate approach would be required	We do not support this as a measure for our scorecard. Whilst not a metric, we support increasing transparency on how provision of strategic capacity is determined. This needs to be considered against a backdrop of demand, claiming of strategic capacity etc. Ultimately we want strategic capacity to enable trains to operate, not for it to be protected to meet a metric.
		C3 Timeliness and quality of Network Rail advice to ORR on track access decisions	✓	✓	- The SO would be accountable for this measure - The measure would be quantitative - This measure might be benefit if the SO and ORR agreed a process for provision of information (possibly as part of an Memorandum of Understanding or enhanced code of practice, for example). Network Rail is already expected to provide certain information.	We do not support this as a measure for our scorecard although we support the progression of an agreement establishing requirements against which we can deliver.
		C4 Delivery of milestones against an improvement programme relating to provision of information on capacity availability/use	✓	?	- The SO would be accountable for this measure - The measure could be quantitative (e.g. the SO's progress in implementing improvements or delivering certain benefits) or qualitative - A measure here would be subject to the SO's SBP/delivery plan committing it to undertaking an improvement plan in this area	Where we identify clear capability improvement programmes, we will reflect the milestones associated with these as appropriate within our scorecard structure.
	Management/allocation of capacity over the medium-term	C5 Timeliness of SOAR Panel decisions (e.g. against pre-agreed SLTs)	?	✓	- The SO is not solely responsible for the SOAR panel; this sits across Network Rail with roles for both the SO and the routes. However, if SOAR is not currently represented on a scorecard somewhere else, it perhaps sits most naturally with the SO - This would be a quantitative measure, though may benefit from some commentary - It may encourage the SO to work more closely with routes to ensure timely SOAR panel decisions are made	We do not support this as a measure for the System Operator scorecard as we are not accountable for its delivery.
		C6 Level of 'strategic' capacity offered to freight and its change over time	✗	✓	- The SO is not solely responsible for what levels of strategic capacity can be offered to freight operators - The measure could be quantitative (e.g. changes to levels of strategic capacity offered over time) - Here, 'strategic capacity' relates to the availability of reserved paths, and the ability of these paths to match with demand - It may be difficult to identify this with existing systems	As C2
		C7 Level of additional capacity/paths created (both Freight and Passenger)	✗	✓	- The SO is not solely responsible for what levels of capacity made available, by passenger and freight operator - The measure could be quantitative (e.g. changes to levels of capacity offered over time) - It may be difficult to measure and report on - There are cost implications to reporting on this - Excluding as a result of enhancements?	As C2
		C8 Delivery of milestones against an improvement programme relating to management/allocation of capacity	✓	✓	- The SO would be accountable for this measure - The measure could be quantitative (e.g. the SO's progress in implementing improvements or delivering certain benefits) or qualitative - A measure here would be subject to the SO's SBP/delivery plan committing it to undertaking an improvement plan in this area	Where we identify clear capability improvement programmes, we will reflect the milestones associated with these as appropriate within our scorecard structure.
Production of timetable *i.e. the SO produces the six-monthly working timetable as well as the operational timetable (the amended version of the working timetable applicable for each day)*	Produce Working Timetable on-time, following industry processes	D1 Delivery against WTT production milestones	✓	✓	- The SO would be accountable for this measure - The measure could be quantitative - The SO is already subject to milestones in this area (referred to as T-12), so the measure would reflect its compliance against these milestones	A milestone plan for the production of WTT will inform our scorecard. This will focus more widely than D-40 to D-26.
		D2 Level of 'late changes' to timetable (after T-12)	✗	✓	- The SO is not (solely) accountable for late changes to the timetable; routes and operators also play a role here - The measure would be quantitative, but could benefit from some commentary (e.g. around scale and impact of late changes and where they are occurring)	Whilst late changes could be quantitatively measured, it is not an issue over which we have sole accountability. Changes occur due to A) engineering work B) operator applications and C) NR driven timetable change. We are considering a measure on our scorecard to assess the timeliness of our response to our customers' variation requests.. Through our framework principles we assure route decision making for late engingeering changes.
	Produce quality and well-performing timetable	D4 Number of incidents caused by timetable errors	?	✓	- The SO is accountable for errors within the timetable - The measure would be quantitative - It may discourage the SO from addressing those timetable errors that have the greatest impact on the timetable (and in turn passengers)	502a incidents will be a measure on the System Operator scorecard.

SO's MEDIUM-TERM ROLE IN THE ALLOCATION OF CAPACITY

SO activity*	SO's role	Possible SO performance measure	SO accountable (for performance with respect to this measure)?	Quantitative metric (unlikely to require commentary to understand it)?	Commentary	High level Comments relating to the SO functional scorecard
Production of timetable *i.e. the SO produces the six-monthly working timetable as well as the operational timetable (the amended version of the working timetable applicable for each day)*	Produce quality and well-performing timetable	D3 Number of delay minutes as a result of timetable errors (referred to as reason code 502a delay incidents)	✓	✓	- The SO is mainly accountable for this measure. However, routes have an impact on the number of delay minutes through signaling - The measure would be quantitative - Measuring minutes has the benefit of capturing some of the scale of disruption (e.g. a small number of incidents but with a large number of delay minutes associated could be of more significance)	Delay minutes attributed to 502a incidents will be a measure on our scorecard.
		D4 Quantum of 502a delay incidents/train miles	✓	✓	- The SO is accountable for errors in the timetable - The measure would be quantitative - It may encourage the SO to consider the trade-offs between capacity and performance (because increasing the number of train miles would have the same impact as reducing the number of timetable errors)	This would be a double count with D4 as it is not clear that increasing train miles to reduce a ratio would drive the right behaviours.
		D5 Quantum of 502a delay minutes/train miles	✓	✓	- The SO is mainly accountable for this measure. However, routes have an impact on the number of delay minutes through signaling - The measure would be quantitative - It may encourage the SO to consider the trade-offs between capacity and performance (because increasing the number of train miles would have the same impact as reducing the number of timetable errors)	See D4. Also, once an incident occurs, the System Operator does not control the regulation of the incident and therefore the delay attributed to it.
		D6 Assessment on the top 502a delays e.g. by route, service operator	✓	✗	- The SO could be accountable for this measure (if not entirely for the impact of the 502a delay minutes), in terms of producing the assessment - The measure would be qualitative. It could be presented as part of an annual report - It could inform areas of potential improvement	We will consider whether this analysis would add value to a narrative report.
		D7 Level of dwell time inconsistencies measured by variance between timetabled and actual dwell times	✓	✓	- The SO is accountable for the accuracy of the timetable - The measure would be quantitative - It would require measurement of dwell times. Existing train information systems may already provide this information - There may be issues with the implementating this measure	We do not support this as a scorecard measure. It is not always appropriate to adjust the timetable to align with dwell times. Also, dwell time inconsistencies can be a result of operational practice and therefore outside of our control.
		D8 Number of conflicts in the Working Timetable, possibly measured by change over time	✓	✓	- The SO is accountable for this measure - The measure would be quantitative - The SO timetabling systems do not currently identify timetable errors (and thus the number of conflicts)	This is a potential future measure, particularly as our use of the ATTUne tool matures. This tool helps us to identify the number of TPR non-compliances in the WTT.
		D9 Level of 'inevitable' TT delay, e.g. where delays will occur even in ideal operating conditions	✓	✓	- The SO is accountable for this measure - The measure would be quantitative, if it can be calculated - Modelling the performance of a timetable is very challenging, and this measure might not be possible to calculate in practice - There are cost implications so a proportionate approach would be required (e.g. on a sample basis)	We do not support this as a scorecard measure. There is no 'inevitable' TT delay - this is confusing PPM specification loss.
		D10 A comparison of Sectional Running Times (SRTs) and actual run times	✓	✓	- The SO is accountable for the accuracy of the timetable - The measure would be quantitative - Sectional Running Times is the time taken for the train to traverse the gap between two timing locations, and is a key input to the Timetable Planning Rules - Measuring actual run times (using GPS on trains) could lead to a refinement of the timetable planning rules, if SRTs were closer to the run times which happen in practice rather than being calculated from first principles. This could also promote a move to per second timetabling - There may be unexplored issues with the practical implementation of this which we have not considered	We do not support this as a scorecard measure. No obvious way of measuring this- SRTs are one type of TPR. GPS implementation alone does not enable SRT consideration (e.g. freight trains traction type, tonnage type, signal aspects, linespeed etc.) Our focus is in making controlled changes to TPRs where performance issues are identified or when infrastructure changes, not in revalidating legacy TPRs which TRIP undertook and found majority to be suitable even in worst performing areas. Note we intend to modernise planning through CP6 and remove 'static' TPRs.
		D11 Timeliness of SO's review of TPR(s) in response to request by stakeholder	✓	✓	- The SO would be accountable for this measure - The measure would be quantitative (e.g. number of days between request and review) - There could be cost implications if the SO was requested to undertake excessive reviews; the SO may need to take a proportionate approach in responding to requests for review (e.g. refusing where the TPR had been reviewed recently) - This could potentially be strengthened if the SO provided a 'service level agreement' style commitment to review TPRs within a given timeframe	We do not currently support this as a scorecard measure on the functional scorecard as it may drive perverse behaviours. We will review our customers' input to determine if this could be reconsidered following our consultation on their priorities.
		D12 Percentage of possessions not utilised by Network Rail	✗	✓	- The SO is not accountable for this measure as Network Rail routes decide on possessions. - The measure would be quantitative - Reporting on this measure across routes could provide some information about how routes are making use of their possessions. Or, routes could report on this measure on a per-route basis - There may create a perverse incentive if it encourages Network Rail routes to 'use' the possession, even where it not efficient to do so because of changing circumstances	With engineering access planning devoved to the route, the System Operator is not accountable for this measure.
		D13 Extent of adherence (e.g. number of breaches) to the Access Framework Principles (a set of planning guidelines/governance structure to inform when possessions should be undertaken, including their coordination across routes)	✓	✓	- The SO is accountable for this measure. It owns the policy, overseeing Network Rail routes' approach to possessions - The measure is quantitative but it may also benefit from some supporting commentary	With engineering access planning devoved to the route, the System Operator is not accountable for this measure. Taking into account customer feedback from our consultations on their priorities, we are considering how best to discharge our accountability of owning the Access Framework Principles.
		D14 Delivery of milestones against an improvement programme relating to production of the timetable	✓	✓	- The SO would be accountable for this measure - The measure could be quantitative (e.g. the SO's progress in implementing improvements or delivering certain benefits) or qualitative - A measure here would be subject to the SO's SBP/delivery plan committing it to undertaking an improvement plan in this area	Where we identify clear capability improvement programmes, we will reflect the milestones associated with these as appropriate within our scorecard structure.

SO's MEDIUM-TERM ROLE IN THE ALLOCATION OF CAPACITY

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Production of timetable *i.e. the SO produces the six-monthly working timetable as well as the operational timetable (the amended version of the working timetable applicable for each day)*	Managing nearer-term requests for path (e.g. from freight)	D15 Timeliness of response to STP requests	✓	✓	- The SO would be accountable for this measure - The measure could be quantitative - STP are short-term requests for access to the network, after the six-monthly timetable has been produced - The measure would benefit from agreed milestones or service level agreements with operators. It could be measures as an average time or proportion dealt with within a certain number of days - There could be some cost implications associated with gathering this data	We are considering a measure on our scorecard to assess the timeliness of our response to our customers' variation requests.
		D16 Responsiveness of SO in responding to customer questions regarding network capability	✓	✓	- The SO would be accountable for this measure - The measure could be quantitative - The measure would require agreed milestones or service level agreements with operators. It could be measures as an average time or proportion dealt with within a certain number of days - There would be some cost implications associated with gathering this data	We do not support this as a measure for our functional scorecard. We will review our customers' input to determine if this should be reconsidered following our consultation on their priorities.
		D17 Delivery of short-term planning milestones (e.g. A for C)	✓	✓	- The SO would be accountable for this measure - The measure could be quantitative - Some sort of measurement process may have to be developed (e.g. a platform for requests etc.)	As D15
Real-time operations (by way of managing nearer-term use of the capacity) *i.e. how capacity is used reflect the SO's operational performance with respect to the activities above, though only in part given the role of other parties in determining how capacity is used. These measures are likely to be of most relevance over time.*	Use of capacity	E1 Number of journey time or line speed improvements identified	✗	?	- The SO is not accountable for this measure - The measure could be quantitative but it is likely to benefit from supporting commentary - It may create perverse incentives in how the SO creates the timetable, given that faster trains tend to mean less capacity (i.e. fewer trains) on the line	We consider that this is not realistic for this part of the operational model. See A2
		E2 Measure train metres/hour (possibly across network or at a range of locations on the network)	✗	✓	- The SO is not accountable for this measure - The measure could be quantitative but it is likely to benefit from supporting commentary	We would like to understand more clearly the outcomes that this measure would be required to drive.
		E3 Delivery of milestones against an improvement programme relating to use of capacity	✓	✓	- The SO would be accountable for this measure - The measure could be quantitative (e.g. the SO's progress in implementing improvements or delivering certain benefits) or qualitative - A measure here would be subject to the SO's SBP/delivery plan committing it to undertaking an improvement plan in this area	Where we identify clear capability improvement programmes, we will reflect the milestones associated with these as appropriate within our scorecard structure.
		E4 Ratio of capacity in use and notional capacity	✗	✓	- The SO would not be accountable for this measure - The measure could be quantitative but would benefit from some commentary to understand it better - Notional capacity refers to the number of trains that could potentially run on a route at a minimum safe distance and as a result of the physical nature of the infrastructure. Capacity in use refers to the number of services that are scheduled to run given the network infrastructure, the timetable planning rules, the rolling stock available, and the timetable itself. - This measure could be used to improve industry's industry around the use of the network.	We do not support this as a measure for the System Operator scorecard, however we are developing a trial based on this principle to determine whether it could add value to a narrative report.
	Use of capacity (passenger-specific)	E5 Number of scheduled passenger trains per weekday	✗	✓	- The SO is not accountable for this measure - The measure could be quantitative but it is likely to benefit from supporting commentary - It could isolate the number of services discontinued for a timetable (i.e. SO) reason	We do not support this as a measure for the System Operator scorecard as it is not an accountability of the SO. We would need to understand more clearly the outcomes that this measure would be required to drive before determining if it would add value to a narrative report.
		E6 Number of train km (could be split passenger/freight)	✗	✓	- The SO is not accountable for this measure - The measure is quantitative - It may incentive incentivise train lengthening and would not penalise freight in the way the TPH (train paths per hour) measure can do	See E5
	Use of capacity (freight-specific)	E7 Volume of freight carried e.g. KGTM and/or its changes over time	✗	✓	- The SO is not accountable for this measure - The measure is quantitative - It is subject to a wide range of other factors, including socio-economic factors, so it is likely to be difficult to determine what this means for industry's performance	We don't consider volume incentives during timetable planning to be appropriate. We would need to understand more clearly the outcomes that this measure would be required to drive before determining if it would add value to a narrative report.
		E8 Number of new freight services created	✗	✓	- The SO is not accountable for this measure - The measure is quantitative but it is likely to benefit from supporting commentary - It does not capture the 'quality' of the paths created	We don't consider this to be appropriate for the System Operator scorecard as it is not a System Operator accountability. We would need to understand more clearly the outcomes that this measure would be required to drive before determining if it would add value to a narrative report.
		E9 Proportion of freight paths refused due to lack of capacity	✗	✓	- The SO is not accountable for this measure - The measure is quantitative - It does not capture the 'quality' of the paths refused (or not refused)	As E8
		E10 Proportion of working timetable freight paths utilised	✗	✓	- The SO is not accountable for this measure - The measure is quantitative - It may encourage more use of the network but is also potentially crude	We don't consider this to be appropriate for the System Operator scorecard as it is not a System Operator accountability. We would need to understand more clearly the outcomes that this measure would be required to drive before determining if it would add value to a narrative report.
		E11 Average speed of freight paths	✗	✓	- The SO is not accountable for this measure - The measure is quantitative	We don't consider this to be appropriate for the System Operator scorecard as it is not a System Operator accountability. We would need to understand more clearly the outcomes that this measure would be required to drive before determining if it would add value to a narrative report.

SO's MEDIUM-TERM ROLE IN THE ALLOCATION OF CAPACITY

Notes   *These activities do not correspond directly with those identified in ORR's June and November 2016 consultations, reflecting stakeholder feedback and development of the SO's role

TABLE 2: Possible SO management performance measures

SO management performance, by theme	SO performance measure		SO accountable (for performance with respect to this measure)?	Quantitative metric (unlikely to require commentary to understand it)?	Commentary	High level Comments relating to the SO functional scorecard
Financial performance *Industry is interested in ensuring the SO spend is efficient and that it is undertaking the necessary investment/spend to deliver services*	X1	Total Financial Performance Measure efficiency generated	✓	✓	- The SO is accountable for its financial spend - The measure is quantitative - The Financial Performance Measure (FPM) compares actual spend with baseline spend, and is a measure of efficiency	The appropriate Financial Performance measure will be determined by the System Operator leadership team with Network Rail corporate. We are considering how transparency in other areas can add to stakeholder confidence.
	X2	Actual v forecast spending in last period (OPEX and CAPEX)	✓	✓	- The SO is accountable for its financial spend - This measure is quantitative	
	X3	Value of current SO RAB (if applicable)	✓	✓	- The SO is accountable for delivering the investment it is funded to deliver. - This measure is quantitative - Reporting on this (annually rather than periodically) could help SO customers (and ORR) understand how investment in the SO is changing over time - This measure could create perverse incentives to invest, even where it is not efficient to do so	
Customer satisfaction *How satisfied the SO's customers are is a measure of the SO's performance*	Y1	Customer satisfaction - generic	✓	✓	- The SO is accountable for its relationship with its customers - This measure could be quantitative - Care must be taken to ensure that stakeholder's satisfaction relates to the SO and the quality of the service it provides, and is not conflated with wider relations with Network Rail or with the result of SO decisions (but rather the quality of how the SO reached and communicated those decisions)	We are currently developing appropriate measures of customer satisfaction / engagement for funders, operators and route businesses that takes into account the processes in which they are involved.
	Y2	Customer satisfaction - operators	✓	✓	- The SO is accountable for its relationship with its customers - This measure would be quantitative	
	Y3	Customer satisfaction - routes	✓	✓	- The SO is accountable for its relationship with its customers -This measure would be quantitative	
	Y4	Customer satisfaction - funders and local governments	✓	✓	- The SO is accountable for its relationship with its customers -This measure would be quantitative	
	Y5	Customer satisfaction - specific processes	✓	✓	- The SO is accountable for its relationship with its customers - This measure would be quantitative - There may be a value in the SO asking for feedback from customers each time they go through one of its processes, e.g. Network Change, to help it receive continuous feedback	
Safety *Possible measures of the SO's impact on system safety*	Z1	Number of conflicts identified in the timetable	✓	✓	- The SO is accountable for producing the timetable - This measure would be quantitative - Although there are numerous other protections (e.g. signalers, interlocking), a timetable with fewer conflicts reduces the chance of a collision. A safer timetable is also likely to be a better performing timetable	The way in which the System Operator contributes to the overall safety of the network is through the delivery of its operational model. A balanced scorecard together with a narrative report and compliance with out legal obligations demonstrates that the System Operator is having the appropriate impact on system safety.
	Z2	Level of SO capability with regards to its duties under the Construction and Design Management legislation	✓	✓	- The SO is accountable for the competencies of its staff - This measure could potentially be quantitative if there was a recognised measure of competence - The SO typically carries out responsibilities under the CDM regulations - It could assess the capability of its staff in this area, and identify improvement plans if required	
	Z3	Operational safety impacts assessed for all early stage projects (in accordance with the Common Safety Method)	✓	✓	- The SO is accountable for the development of projects - This measure could be quantitative (e.g. percentage of projects lacking assessments) - Under the Common Safety Method for Risk Assessment, enhancements should consider their impact on operational safety as a matter of course	
	Z4	Completion of Disability Impact Assessments for all relevant enhancements during the development stage	✓	✓	- The SO is accountable for the development of projects - This measure could be quantitative (e.g. percentage of projects lacking assessments) - Under the Equality Act 2010, all enhancement projects should consider their impact on protected characteristics as a matter of course	
	Z5	Number of stations assessed as 'overcrowded' in any given year	✗	✓	- The SO is not accountable for the level of crowding in stations - This measure would be quantitative - The SO could report on which stations have been identified as overcrowded in any given year	
	Z6	National level crossing risk score	✗	✓	- The SO is not accountable for the level crossing risk score - This measure would be quantitative, but a report with supporting qualitative analysis could be of more value to stakeholders - The SO could report on which level crossings were the highest risk, or had experienced substantial changes in their risk scores, as well as celebrate good risk mitigation actions	

Response to ORR's consultation on possible measures of the system operator's performance (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 **21 September 2017**.

Full name	John Hillman
Job title	Programme Manager
Organisation	For the Peninsula Rail Task Force
Email*	
Telephone number*	

*This information will not be published on our website.

Question 1 (Chapter 2):

Are there any substantive areas of the SO's activities that you consider are not outlined, and where its performance should be measured?

The Peninsula Rail Task Force (PRTF) support the areas proposed and would like to reinforce the need to measure and ensure benefits proposed as part of schemes are delivered by the concerned parties.

Question 2 (Chapter 3):

What are your views on the measures outlined with respect to strategic planning and managing output changes? Are there any additional measures that you think would measure and incentivise the SO's performance in this area?

The PRTF believe that many 'enhancement' opportunities are available that build on renewals schemes (and have a greater relevance given the changes in funding from CP6) which need to be identified early and should also be made visible by the SO to stakeholders and funders. In the South West several of these schemes have become evident following work undertaken as part of the 'Speed to the West study'.

Question 3 (Chapter 4):

What are your views on the measures outlined with respect to managing the framework for access rights, producing the timetable and use of capacity? Are there any additional measures that you think would measure and incentivise the SO's performance in this area?

The PRTF believes that there is an element of incremental improvement that exists within the renewals programme and that can be identified as relatively cheap enhancements schemes for funders. An example of this is the 14 miles of line speed improvements from 60 mph to 75mph between Totnes and Hemerdon which improves capacity and journey times and can be undertaken as part of an enhanced renewals programme. We believe that the SO and the routes should identify these type of potential improvements that exist to make visible for potential funders.

Question 4 (Chapter 5):

What are your views on the SO management performance measures outlined, and are there any additional measures which you think would measure and incentivise the SO's performance in these areas? We would particularly welcome suggestions on the SO's role in contributing to system safety.

The PRTF support the proposals.

Question 5 (Chapter 6):

What are your views on our proposed criteria for identifying possible ORR-determined SO measures?

No Comment

Question 6 (Chapter 6):

What are your initial views on what measures, if any, ORR should consider setting as ORR-determined measures?

No Comment

Any other points that you would like to make

The PRTF would like to raise a specific interest in table 1 which deals with growth forecasts. The South West passenger growth has consistently been under estimated within the LTPP and the Western Route Study. The SO is currently using a passenger growth figure of between 2.3 and 3% whereas actual growth across the region (Devon and Cornwall) is significantly higher at 5.7%. This difference has a major impact on the planning of capacity and services for the future within the region. We would therefore like to see a much greater level of agreement with stakeholders on the growth levels used within the SO planning process.

Thank you for taking the time to respond.

Rail Delivery Group

Response to

ORR's consultation on possible measures of the System Operator's performance

Date: 21 September 2017

Rail Delivery Group response

ORR's consultation on possible measures of the System Operator's performance

Organisation: Rail Delivery Group

Address: 200 Aldersgate Street, London EC1A 4HD

Business representative organisation

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

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

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

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

For enquiries regarding this consultation response, please contact:

Tom Wood or Bill Davidson

Rail Delivery Group

2nd Floor, 200 Aldersgate Street

London EC1A 4HD

Introduction

1. This submission provides a high-level industry response to the consultation on possible measures of the System Operator's (SO) performance. It is intended to "*inform the SO's ongoing discussions with its stakeholders about its CP6 priorities and, in turn, what it should report on.*" We welcome the opportunity this provides to further shape the regulatory regime for the SO within Network Rail, its priorities for CP6 and in turn what and how it should report on its performance.

2. We recognise that the regulatory framework for the SO should continue to develop during this periodic review - and may need to further mature in CP6. SO performance measures should therefore be an area in which the ORR expects the SO to look for opportunities to improve reporting, and is willing to give due consideration to any changes in metrics and target outcomes proposed (aside from the additional need to actively balance the outputs of the system as the SO makes trade-offs).

3. We are content for this response to be published on the ORR website.

Industry support

4. As we have indicated in previous responses to the ORR consultations on system operation and the role of the SO, we believe that the creation of a distinct, network-wide, SO capability within Network Rail is a moment of opportunity. We agree with ORR's expectation that: "*industry will increasingly rely on a SO that is proactive, transparent, evidenced-based and independent and impartial of any particular interests to help them deliver for passengers and freight customers*".

5. Our working group on SO regulation has proved a useful forum to explore the challenges of developing measures that reflect the SO's own contribution to the planning of the network (both long-term and immediate). While welcoming the increased potential to engage, challenge and agree priorities with the SO, we do not believe that stakeholders should be relied upon to replace the regulator's role. Nor should customers be required to undertake any duties on the ORR's behalf.

6. Notwithstanding this, we welcome any efforts to develop a more focused regulatory approach in which industry is encouraged to resolve issues internally before formal intervention is required.

7. We look forward to Network Rail setting out in greater detail, through its Strategic Business Plan, further development of SO measures and means by which stakeholders can continue to play a substantive role in the SO's governance. As part of this, we believe that it may be appropriate, in some areas, for 'compartmentalised' discussions that enable greater transparency and more detailed information exchange with different groups of like stakeholders.

SO vs System measures

8. This response focuses on the consultation's relatively narrow area of SO-specific measures and reporting. We recognise that it will not be possible to distil every aspect of the SO's work into quantitative measures. The SO may need to provide qualitative information and descriptions to complete gaps in any data-based approach to reporting. This would also allow an explanation of decisions and trade-offs made by the SO that require the regulator to adjust its expectations.

9. We look to Network Rail to progress the development of scorecard measures and an appropriate suite of reporting documents in advance of CP6; and that it will continuously improve these as part of its day-to-day activities.

10. Many of the SO measures discussed in the consultation are close to those of overall system activity (including the consequence of ORR, DfT and Transport Scotland decisions). Indeed, we see a clear role for the SO in bringing together the overall picture of system performance and presenting this information for all interested parties. However, the collation and reporting of these activities should not result in measures against which the SO is itself measured or regulated.

11. While the SO's scorecard should include measures that are important to both ORR and customers, we recognise its primary purpose is as a management tool. There are likely to be a range of other channels of communication that could be used to report to stakeholders - such as annual reports, capacity statements, planning consultations, system dashboard, etc.

12. Together, these documents could be wider in scope, more detailed, and allow transparent reporting to be given to both SO performance and wider system performance - including the contribution that different parties (e.g. ORR, DfT, Transport Scotland) make to this.

Question 1 (Chapter 2): Are there any substantive areas of the SO's activities that you consider are not outlined, and where its performance should be measured?

13. The detailed list of potential metrics in the consultation's annex highlights a number of challenges. While there may be value in reporting on a wide range of activities, there is also a need to achieve a balance between:

   • a distribution of measures from across the operating model,

   • relevance to the SO itself and not the whole system,

   • different levels of detail for useful reporting, and

   • sufficient detail to be informative balanced against the burdens of large volumes of reporting.

Guided by the operating model

14. We agree with the approach taken of mapping measures across the different activities covered in the SO's operating model (as shown below). This should be supported by process maps and a governance framework that the SO reviews with its stakeholders in advance of CP6.

15. Each stage of the model lends itself to a different degree to the use of process and output oriented measures. This may make it easier to suggest more detailed measures for some sections. It is important to avoid adopting too many measures simply because they are readily available, otherwise there is a risk of over-weighting one particular stage and a resulting imbalance in both management and regulation of the SO.
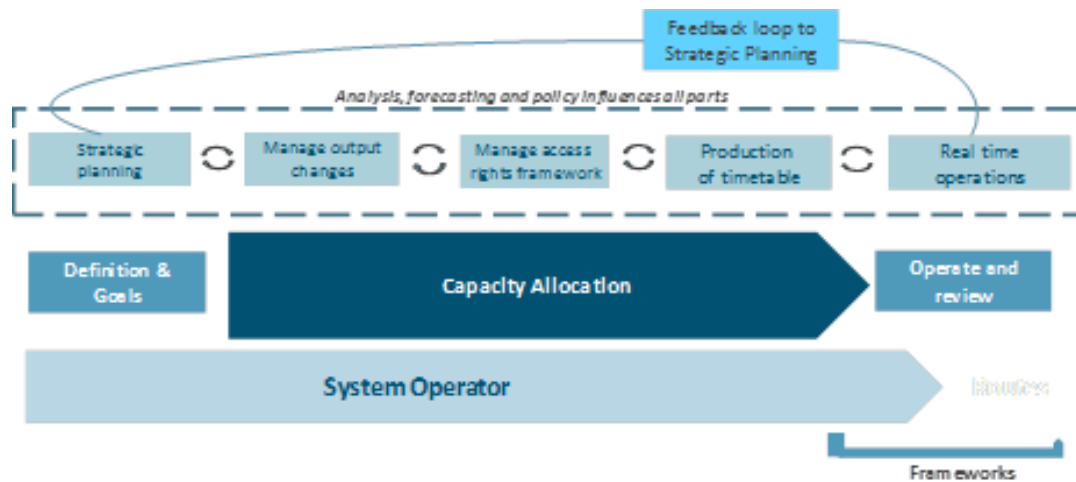
The SO's operating model

16. The only area of significant activity that we have identified as missing in this section of the consultation lies within 'managing output changes'. The proposed measures focus on managing the enhancement portfolio and informing franchise decisions. There is a lack of reference to the SO's role in managing Industry Planning Groups / Event Steering Groups (ESG) to coordinate the network's adaptation to, and incorporation of, significant changes.

17. There could be a number of measures around the production of materials (e.g. timetables for 'calendar of event' topics) which enable the ESGs and other industry forums to have substantive and informed discussion that allow issues to be moved forward in industry discussions.

Measuring capability

18. Overall, we believe that the SO metrics need, when taken together, to be able to measure the execution of the SO's business plan and the quality of the outputs within its direct control. In this regard the measures should be driven by the SO's plan and enable stakeholders and the ORR to ask of the SO:

- What did the SO's plan set out to do?

- Did it follow through on the plan, or change control appropriately?

- Were appropriate tools and processes used?

- What is the assessment of the success of the actions undertaken?

Qualitative and quantitative measures / reporting tools

19. In many instances it may not be easy or appropriate to use quantitative metrics. Compared to Route scorecards we believe that an accompanying narrative is likely to be a more important component of scorecard reporting.

20. The requirement for an accompanying narrative highlights the need for the SO to work with stakeholders to develop appropriate communication channels to consider SO performance and future stakeholder priorities in order to improve industry outcomes.

21. The activities falling within the upper-right quadrant of Table 2.1 in the consultation are therefore of particular significance. They will often be more appropriate tools for the transparency being sought than adding additional information to a business focused scorecard.

22. The SO should be engaged in a wide range of reporting and its performance may be reported in-the-round through existing publications thereby reducing the overall regulatory reporting burden. It is important, though, that the performance measures and accompanying commentary are not 'buried' or overly dispersed across publications but are appropriately consolidated and readily accessible.

23. Equally, where data is available, route-level reporting of some SO related measures should be undertaken to avoid the reporting of overly-consolidated information into too-few and too-high a set of measures. Any disaggregation and reporting of SO measures at route-level, should not undermine the relationship that operators have directly with the SO as a whole. Since the relationship that operators have with the SO is one of the most important that they have with Network Rail, it is crucial that route-level SO scorecards do not result in the SO prioritising its relationship with the Routes.

Question 2 (Chapter 3): What are your views on the measures outlined with respect to strategic planning and managing output changes? Are there any additional measures that you think would measure and incentivise the SO's performance in this area?

Leading strategic planning

24. In this area, as in others, the quality and comprehensiveness of the advice provided by the SO will be a central consideration of the SO's performance. A number of the potential measures set out in the consultation (especially those indicated as not being within the SO's accountability) appear more appropriate to a system operation dashboard than they do to the SO's own measures.

25. There are risks of perverse behaviours being driven by inclusion of some of the proposed measures. Care should be taken not to presuppose particular approaches to developing proposals through the long-term planning process (LTPP) and any modular planning that takes place - for example, the suggested measures imply that all funding of investments is beneficial (A7), or that all options should be progressed (A8).

26. It is important that the SO measures reflect the activities for which the SO is accountable. Possible measure A5 considers the "*accuracy of forecasts contained within the LTPP*" and is identified as a metric for which the SO is accountable. However, it would not be appropriate to hold the SO to account should actual growth not ultimately align with forecasts given the many other factors that influence growth. Furthermore, many SO growth forecasts are 'unconstrained' making it very difficult to overlay constraints in order to understand their accuracy.

27. Measures need to be able to assess the quality of the work undertaken - rather than presuming milestones at the beginning of the control period (especially given the approach being taken to modular planning for CP6).

28. Measures of quality might include the perceptions of the funders receiving advice.

29. Engagement with stakeholders, including future customers and end users is important and the SO should make clear in its reporting how parties are incorporated into consultations and views measured.

30. It may be that the scorecard focus for the SO should be limited to milestones for national investment programmes only at this level of reporting.

Early stage development

31. In the initial list (B1-B3) of possible performance measures, advising franchise decisions in relation to early stage project proposals are absent. The SO should be engaged pre-ITT in advising, and post submission in assessment activities; separate measures should exist for each of these. Where options have already been previously developed with funders another measure may be appropriate.

32. Metrics in this area would therefore be more successful if based on activities explicitly set out as part of the joint working between the SO and a Franchising Authority (FA) in support of the franchising processes and milestones reported. This would also allow for activities in terms of wider advice to be recognised in the SO's support of the FA.

Managing output changes

33. Members would welcome more explicitly tracking by the SO of delivery against milestones for the early stage development of enhancement programmes. The SO also needs to be able to accommodate changes in funders' requirements, in funding, and in timescales – and be able to adjust milestones if these are being used as measures.

34. As in other scorecard areas, the ability to engage in change control of outputs is important for the SO to be able to fulfil its function of making best use of available capacity while taking into account external factors such as the investments being made in, and usage sought of, the network.

35. The SO therefore needs to actively manage the realisation of intended benefits by protecting capacity ahead of the introduction into service of a new scheme, and the monitoring of consequential changes to any decisions (e.g. as per Hendy Report) to postpone schemes – as assumptions may have been made elsewhere about future network capabilities.

Question 3 (Chapter 4): What are your views on the measures outlined with respect to managing the framework for access rights, producing the timetable and use of capacity? Are there any additional measures that you think would measure and incentivise the SO's performance in this area?

Managing the framework

36. There are significant opportunities for the SO, as the policy owner for Network Rail's sale of access rights, to develop approaches that support the Routes' work with operators on applications and inform potential regulatory directions for access agreements.

37. However, given that agreements are directed by the ORR, the decision criteria set out in the industry's network code, and capacity disputes are reviewed by the Access Disputes Committee - this is an area not entirely within the control of the SO. A few process based measures and, more importantly, narrative descriptions of whole system performance are likely to be the most relevant way for the SO to report on this topic.

38. Although the SO may manage frameworks for real time operations, such as for service disruptions through a Rail Operating Centre (ROC), the ORR should be clear that if measures for this are proposed, they are more likely to be related to wider system operation and not the SO specifically.

39. The SO should also be producing system reports such as the strategic capacity statement and the dashboard; these tools, supplemented by detailed commentary that reports on the effectiveness and success of these processes, may be better vehicles than the scorecard

for such reporting. While any dashboard will measure whether the SO has undertaken a process (e.g. has the Strategic Capacity Statement been published) members expect the success and value of the process to be considered (e.g. have new, useful strategic paths been added to the Strategic Capacity Statement). This will be difficult to capture via a scorecard or dashboard, so commentary within an annual review document may be necessary.

Identifying capacity

40. RDG members have long-held the view that the SO provides an opportunity to address the need for a more strategic and innovative use of capacity. A separate determination is a welcome means to identify resourcing for research and improved analysis of network usage policies and capacity assessments. Regulation of the SO offers an opportunity to provide a balancing indicator to allow Network Rail to make more informed trade-offs between capacity and performance. In order to make trade-offs, an indication of levels of capacity utilisation and identification is necessary.

41. Ultimately, the SO needs to have the ability to balance the competing needs of stakeholders and deliver capacity in the best overall way.

42. While we believe that the SO needs to demonstrate its capability to identify spare capacity (potentially as part of a rolling programme of regular reports) and articulate how it could be used, it should not be targeted on the sale of such paths. Rather, the SO need only provide insight into 'white space' then allow operators to work out what it commercially makes sense to fill it with.

43. In the view of some of our members, a simple numeric measure of the use of network capacity is not meaningful; a more qualitative approach to describing how the network is performing would be more appropriate.

44. Identifying measures that the SO is accountable for is difficult, however capacity utilisation and identification is an important activity of the SO and an area where it can add significant value for its customers. Measures of capacity are necessary to provide a balancing indicator to undertake a trade-off against performance measures. As such there may be merit in the SO exploring further and potentially trialling some of TRL's suggestions or measuring milestones pertaining to a root and branch programme of capacity optimisation.

45. It may be instructive to monitor the frequency of ORR directions that do not follow SO advice – especially where the divergence is based on an ORR assessment and challenge of the quality of the SO's analysis (as opposed to other considerations that the SO may not have had a duty to take into account such as abstraction).

Quality of advice

46. As stated in our response to question 2, quality of advice is a consistent factor across the areas of this consultation. It will be important to a number of parties in the industry including:

- franchising authorities in the development of transport strategies and franchises,

- project developers and funders on the business cases with relevant asset costs,

- customers and Routes on the opportunities and impact of capacity decisions, and

- the regulator in assessing the effective allocation of capacity.

47. Measures across this range of long-term and capacity allocation activities should enable innovative behaviour and support a systematic review of the perceived wisdom of the network's capabilities.

48. Where the SO is making decisions on capacity allocation, the extent to which it follows the codes and criteria set out in its own, and in industry frameworks (e.g. as measured by successful appeals to other bodies), may provide a measure of how robustly the SO's processes are delivered.

49. The SO should also propose changes to processes, decision criteria, network codes and industry / business rules to enable planning and access frameworks to evolve and support the needs of the wider industry.

Producing the timetable

50. There are many potential measures identified (see D1 to D17) and this highlights how straightforward it is to measure this SO activity. Many of the possible metrics include measuring 502a delay. While measuring performance is necessary it, is important that it is not over-represented on any scorecard because it is easily quantifiable. This would risk over-incentivising performance and some members suggest that the role that the SO plays in allocating and identifying capacity is more important than its role in overall performance.

Question 4 (Chapter 5): What are your views on the SO management performance measures outlined, and are there any additional measures which you think would measure and incentivise the SO's performance in these areas? We would particularly welcome suggestions on the SO's role in contributing to system safety.

Financial Performance

51. Network Rail needs to manage the long term sustainability of the network to ensure delivery of safe, reliable, affordable infrastructure for future users of the railway. This should be recognised in the overall assessment of the SO's approach to both supporting the railway and managing its business in a sustainable railway.

52. We agree with ORR's planned approach of establishing a separate settlement for the SO's role within Network Rail's overall determination. This should be supported, as described above, by reporting based on a business scorecard approach that contains a range of customer informed measures. It could be reinforced by a Regulated Asset Base for the SO and distinct governance arrangements akin to those of the Routes that include an independent Supervisory Board.

SBP and scorecard

53. For the purposes of measuring SO performance, we look to Network Rail to propose a scorecard later this year that reports through both quantitative and qualitative measures. This will consist of:

- a more direct assessment of the SO's own performance,

- its delivery against business plan, and

- the overall, balanced, contribution it has made to the system's outputs – including an understanding of the trade-offs it has managed.

54. There will also need to be a clear, transparent and flexible approach to change control of any regulated measures in order for the SO to balance industry and funder needs as demands on the network evolve.

Customer satisfaction

55. Quality customer service (along with innovation, problem solving, and whole network thinking) should be central to the behaviour of the SO. We welcome a focus on the nature and quality of the service provided for current and potential future Routes (or infrastructure managers), operators, funders and end users. This should inform the development of the SO's scorecard and wider reporting – and avoid the use of additional metrics unless there is a clear gap in reporting on activities (see question 5).

Safety

56. We believe that beyond safety measures relating to its own staff, the SO should report on its contribution to overall safety and risk. The SO should propose these in due course, but we would suggest that these might include outputs that lead to a day-to-day improvement in safety being built into its work. For example: overall performance improvements, identifying level crossing risks from changes in capacity use, or evidence of safety being designed into longer-term planning options

Question 5 (Chapter 6): What are your views on our proposed criteria for identifying possible ORR-determined SO measures?

57. We recognise that there may be gaps in the SO's finally proposed range of measures that could necessitate the ORR identifying possible additional measures. However, we would hope that the SO will engage collaboratively with stakeholders to establish its scorecard and wider reporting activities (i.e. annual reports, system dashboard, network capacity statements), and will establish a sufficiently wide range of publicly available data that the ORR need not add to these.

58. In the event that the SO scorecard only consider process related metrics it may then be important for the ORR to consider additional qualitative measures to assess the value that the SO is adding to the industry. For operators, the outcome of the processes is as important (or even more important) than the actual process itself and therefore it is hoped that the SO will look to capture the successful outcome of processes in its reporting. In the event that the SO scorecard focusses on capturing the mechanics of the process the regulator may wish to consider additional reporting requirements on outcomes.

59. We believe that this approach should enable the SO to avoid the risk of placing more importance on the ORR's additional measures than on the agreed priorities of operators and Routes, and the SO's other customers, which might otherwise restrict the ability for the network to manage shocks, or stifle future reforms.

60. Such a risk would of course be dependent on the wider governance framework that the SO establishes to review its SO scorecard and performance. This is a function of Network Rail which members would not want undertaken by another pan-industry body above Network Rail – especially if participation is limited among selected commercial entities.

61. This response is also being submitted to the SO and we anticipate further discussions on measures and governance in the near future.

Question 6 (Chapter 6): What are your initial views on what measures, if any, ORR should consider setting as ORR-determined measures?

62. Without prejudice to ORR's ultimate responsibilities, we believe that the regulator is less likely to need to set specific measures for the SO - since its assessments are less likely to be based on numeric measures.

63. The use of properly developed, customer focused scorecards at national and route-level should, lessen the need for additional ORR-determined measures, assuming that the SO measures, or reporting documentation, consider qualitative measures that assess the value that the SO is adding to the industry. Any further ORR-determined measures should be considered where these qualitative measures are not being captured by the SO. This will not be known until the SO has established its suite of scorecards and other reporting tools, for example annual reviews. Indeed, this should support an approach of the SO undertaking reporting on exceptions rather than its entire suite of metrics to reduce the overall level of regulatory reporting.

Additional points

64. As we have previously stated, RDG members are keen to see a proportional regulatory approach to the SO's regulation. We are keen to avoid a complex or prescriptive approach that risk: being bureaucratic, creating artificial barriers between different parts of the system or placing a disproportionate cost on the industry and funders due to an over emphasis on regulating the process involved.

65. We therefore welcome the proposed approach to monitoring and enforcement in CP6 as set out in the overarching consultation on the regulatory framework for Network Rail that: "*As a general principle, where there are strong mechanisms for customers and other stakeholders to work with Network Rail to agree and deliver appropriate action, we will give the space for these mechanisms to be used, supporting the relationship between Network Rail and its customers.*"

ORR's Consultations on the Overall Framework for Regulating Network Rail Route Requirements and Scorecards, and System Operator

Response from Rail Freight Group

September 2017

1. Rail Freight Group (RFG) is pleased to respond to the ORR's consultations on the overall framework for regulating Network Rail, and on route requirements and scorecards. We have responded to these three documents together given their overlaps. No part of this response is confidential.

2. RFG is the representative body for rail freight in the UK, and we campaign for a greater use of rail freight, to deliver environmental and economic benefits for the UK. We have around 120 member companies including train operators, end customers, ports and terminal operators, suppliers including locomotive and wagon companies and support services.

General Comments

3. Overall, we support the broad framework that ORR is proposing for CP6, noting the balance it seeks to achieve between flexibility and strong regulation. The approach appears to align with the aims of route devolution, benchmarking and encouragement of closer alignment.

4. That said, as minority operators on the network, freight operators and users remain concerned that the right incentives and governance are in place to support delivery of freight objectives, and that ORR's key role in regulating a monopoly provider can still, if required, be strongly enforced.

5. We are also concerned that the emerging framework might be seeking to compensate for a lack of effective internal governance at Network Rail. In particular, it remains wholly unclear how the interfaces between SO, FNPO and the geographic routes will function to deliver freight outcomes which sit on the FNPO scorecard but not elsewhere. ORR should resist seeking to manage this through scorecards and its regulation, and encourage Network Rail to have effective internal management in place for the start of CP6.

Questions 1-3

6. Scorecards are most likely to be effective as a management tool, which can be shared with operators and used to drive actions and improvements. To that end, we agree that there should be a limited approach to regulating the scorecard requirements. They should remain customer facing, not regulator facing. This may mean that ORR will have to place more emphasis on other areas of monitoring and regulation alongside.

7. We agree that there should be sufficient common metrics to enable benchmarking between the routes on key measures, but also allowing space for flexibility.

8. As noted in para 3.28, it is important that the geographic route scorecards reflect all operators including freight. However, it is difficult to see how this can be achieved without other suitable controls within Network Rail. As there is only likely to be a single freight measure on the route scorecards (performance), how will other outcomes such as velocity, new flows, investment – and other measures in the SBP for the FNPO – be delivered? We do not see how this can be remedied through scorecards alone.

9. Scottish Ministers have asked for specific freight targets in their HLOS which could be one model used elsewhere. Management incentives, or a more formal inter-route governance agreement, might also be ways of closing this gap.

10. We note the proposal to set a minimum floor for performance, and consider that the same approach must be taken for passenger and freight to avoid distortion in Network Rail's management of performance (albeit that the targets differ). ORR must assure itself on how it can validate and regulate overall network outcomes to ensure that the network as a whole is delivering as expected, as end to end performance is the most important for freight customers, not route by route.

Questions 4-6

11. Network Rail needs to engage effectively with a range of stakeholders. For freight, this can include operators, end customers, developers, ports, local and regional bodies, planning authorities, rolling stock businesses and so on. It would be counter-productive for ORR to seek to determine who that engagement should be with, or at what frequency.

12. The nature of engagement is also varied, but in many cases, it is the quality and speed of follow up actions that determine how satisfied stakeholders feel rather than just the frequency of engagement.

13. This is an area where light touch regulation is necessary. Some periodic measure of customer satisfaction may be one approach.

14. ORR should also be clear that engagement needs to focus on the delivery of desired outcomes which improve stakeholders business, rather than expecting them play to a significant role in the regulation of the monopoly.

Questions 7-10

15. We broadly support the proposed approach. ORR must maintain a strong ability to regulate and enforce at a national level. At a route level, reputational measures seem most likely to be effective, but ORR also must be able to act if one route is consistently failing.

16. We agree that the measures of SO performance are as likely to be qualitative as quantitative, particularly as it is becoming established. There could be specific targets, for example on the introduction of new technology, although we would generally expect this to be an internal management matter.

Questions 11-13

17. We support these proposals. However there is a danger that well performing routes will 'lose money' to support poorly performing routes, and ORR should consider how that perverse incentive might best be monitored and managed.

18. We are unclear how much stakeholders can realistically influence this area; nonetheless they should be appropriately consulted.

Route Requirements and Scorecards consultation

Questions Para 3.11

19. ORR must assure itself of Network Rail's financial management and efficiency; however we are not convinced that it necessarily adds customer value to require this to be measured on a scorecard. Customers may choose to ask for this if required, and there should be flexibility to choose appropriate measures.

20. ORR's other monitoring activities may be a better way of ensuring financial monitoring, and ORR will need to consider how it collates such information, including at route level, if this is not on scorecards.

Questions 4.13, 4.14

21. Again, we are unclear that having this measure on a scorecard adds particular value to customers. ORR must however have clear ways of monitoring and enforcing this, as end customers, particularly in time limited franchises, may not place particular value on it.

22. Long term sustainability is of importance to freight users, including in Network Rail managed yards and sidings.

Questions 5.55- 5.58

23. As outlined above, scorecards cannot be used as a substitute for effective cross route governance. Absent this, it will be necessary for freight performance (and arguably other measures) to be both on the FNPO scorecard and those of the geographic routes.

24. FDM has proved a better and more useable measure than delay minutes and should be retained, including at route level.

25. The regulation of freight performance should be done in the same way as that of passenger to avoid distortion and as such a minimum floor should be set.

Questions 6.10-6.12

26. An equivalent approach to freight user satisfaction should be considered, to ensure that freight customers' voices are considered on an equal footing with passengers.

27. Although we understand the desire to grow off peak ridership, the off peak periods are also where most freight is able to operate. Increasing off peak passenger services can therefore be detrimental to freight growth. A balanced approach to considering the best service mix here could avoid the need for some enhancements in future, and as such we do not support specific targets in this area.

28. If off peak growth is however included as a scorecard measure for the geographic routes, then we consider that freight growth should also be included, as set out in the Scottish HLOS.

Questions 6.22 – 6.24

29. We agree with this proposal. As both ORR and Network Rail measure freight in net (not gross) tonne miles, this would be the preferred metric for the industry. Freight miles (and indeed passenger miles) tends not to reflect the efficiency of use – so for example, a better loaded, longer train would not reflect in a freight miles measure but would be a good outcome for both the customer and Network Rail.

Question 7.10

30. This is a complex area, as the potential sources of funding and the interaction with Government enhancements is unclear. As such we think it is difficult to include a freight measure at this stage.

31. However, where freight customers are looking to invest in specific schemes, such as new connections to terminals, there must be sufficient leverage on the geographic routes to facilitate this.

Question 8.11

32. Maintaining access for freight through devolution is likely to be an important area, and one where we expect the SO to have a strong oversight. We would support the inclusion of a scorecard measure in this area, which encourages the routes to facilitate freight access and diversionary capability.

Question 8.14

33. This is a critical area and we would support strong monitoring and enforcement of it. The Scottish HLOS refers to this for gauge, and we support this approach, including for other areas such as route availability.

Question 8.19

34. This is most likely to be a matter for the SO, and for the franchising authorities.

Possible Measures of the System Operator Consultation

35. We strongly support the establishment of the SO, and an appropriate regulatory framework to oversee its performance and outputs. An effective SO is critical to protecting the rights of freight in an increasingly devolved railway.

36. We are keen however that the regulatory approach is proportionate, and allows the SO flexibility to manage its activities. As the SO is still newly established, this is particularly important. Whilst this consultation is right to explore regulatory options, we consider that fewer rather than more targets is likely to be appropriate, with an equivalent focus on qualitative oversight of internal programmes such as technology development necessary to fully develop the SO capability. Monitoring of the SO's SBP outputs may be an appropriate approach.

Question 1

37. For freight users, the key elements of SO activity relate to capacity and timetabling. There is a strong focus on improving the outcomes for freight, for example in attained velocity. This focus on improvement is not clear in the discussion in this section.

38. SO also has a strong role in protecting strategic capacity and in securing the outputs of freight enhancements.

39. Investors such as terminal developers may look to the SO (with FNPO)for strategic studies to support their planning application. SO's responsiveness to wider end customers (not just operators) is therefore important.

40. Engineering access planning remains a critical issue, and one where SO should have strong oversight. This is only referred to in passing.

Question 2

41. We note that there are a significant number of potential measures listed, and that including even a fraction of these on a scorecard could be counter-productive. Selected measures need to be most closely aligned with the principle role of long term planning, improving capacity and timetabling and responsiveness as well as maintaining and enhancing systems to enable planning to be undertaken most effectively.

42. Qualitative measures are most likely to be useful for the majority of these areas.

43. Some measures, such as Network Change, link to previous discussions on network capability. As this is a mandatory process, we are unclear that it needs to be on a scorecard.

44. Measures such as A1, A10, B1, B8, B10, B12 would support the delivery of SO objectives and are easy to produce and understand. Other measures are more subjective and it is not clear that they would appropriately focus SO activities.

Question 3

45. We support the inclusion of a small number of metrics, which consider the responsiveness of the SO, its ability to improve network capacity and in timetabling.   Again, there are many suggested measures, which is likely to be unmanageable.

46. We support the inclusion of a measure on development of freight capability, such as Strategic Capacity, and measures on outcomes such as velocity should be aligned with any comparable measures for FNPO (noting previous comments on cross route governance).

Question 4

47. Broadly, we consider this is a matter for Network Rail. However, SO should have sufficient regard to customer outcomes, via its governance processes, or by customer survey and monitoring, which may need to be more qualitative than numerical.

Question 5

48. We think the proposed approach is reasonable.

September 2017

ORR CONSULTATIONS ON:-
THE OVERALL FRAMEWORK FOR REGULATING NETWORK RAIL;
ROUTE REQUIREMENTS & SCORECARDS;
POSSIBLE MEASURES OF THE SYSTEM OPERATOR'S PERFORMANCE

1. INTRODUCTION

1.1 This letter constitutes the formal response from the Railway Industry Association (RIA) to the above consultations.

2. BACKGROUND TO RIA

2.1 The Railway Industry Association is the long-established representative body for the UK-based railway supply sector, with nearly 200 member companies from across the entire field of railway supply with over 30,000 employees and turnover of around £6bn, covering most of the UK rail supply base. Members include manufacturers, consultancies, contractors and numerous specialist service providers. Most major supply companies are members, together with many SMEs.

2.2 RIA provides its members with extensive services, including:

- representation of the supply industry's interests to Government, Network Rail (NR), TfL, HS2, ORR and other key stakeholders
- providing opportunities for dialogue and networking between members, including a number of Special Interest Groups (see 3 below)
- supply chain improvement initiatives
- provision of technical, commercial and political information every week
- export promotional activity, through briefings, visits overseas, hosting inwards
- visits
- organising UK presence at exhibitions overseas.

3. RIA'S RESPONSE

3.1 We have seen the responses from both the Rail Delivery Group and the Rail Freight Group and we are in broad agreement with the thrust of both. There are however, one of two other points we would like to make from a RIA perspective.

3.2 We support the broad framework that ORR is proposing but there clearly needs to be a balance struck between appropriate regulation to achieve the desired results and over-regulation which could lead to stifling Network Rail and making the process of compliance counter-productive in terms of delivering the 'day-job'.

4. SPECIFIC RIA COMMENTS ON THE OVERALL FRAMEWORK CONSULTATION

4.1 We note that, according to our search, the words 'supply chain' are mentioned only once in the document on page 55. We have raised in previous responses, the apparent lack of recognition of the supply chain in the PR18 process. Paragraph 1.4 of the consultation states the PR18 aim as "a safer, more efficient and better used railway, delivering value for passengers, freight customers and taxpayers in control period 6 and beyond". Regarding the highlight (ours) we believe that the supply chain has a crucially important role to play in helping deliver further efficiency – particularly in respect of renewals, so the lack of reference to it is disappointing – eg page 35, para 4.6 makes no reference to the supply chain in the list of key stakeholders.

Bearing that in mind, paragraph 3.13 of the consultation refers to Network Rail's route-level customer-led scorecards for freight and passenger operators which are summarised as a single entry in the relevant route scorecard. While we support the use of Scorecards in CP6 (page 33 Q1) and also that the measures need to be balanced to allow NR adequate flexibility (Q3) we believe consideration should be given (Q2) to devising a process for each Route to measure the effectiveness of its engagement with the supply chain, eg in terms of overall communication. We believe the issue of asset knowledge is something that should also be measured via a scorecard, especially in terms of buried cables etc. The Hansford Review, and Network Rail's response, encourage outside investment in the railway but a significant obstacle in the way of such investment is the inability to map utilities and describe the "as is" condition.

4.2 We believe it would also be useful to consider some sort of measure around actual v estimated spend – especially in respect of renewals. We have seen in the past the problems with the peaks and troughs in renewals expenditure across Control Periods – the two slides embedded below provide examples of this:- *(ORR Note: These slides are included below the response letter).*

Renewals Peaks
and Troughs by CP.p

Renewals
CP5-6.pptx

4.3 And as we made clear at the ORR Efficiency Seminar on 19 September this leads to increased costs, and a disincentive to invest in people, products, and process. We also note that it is the intention to allow Routes the flexibility to vire money from one to the other which might also help smooth out expenditure profiles. We have a meeting with John Larkinson scheduled for 16 October to discuss how we might take forward the key findings of that Seminar where we would be happy to discuss this and the issues described in 4.1 & 4.2 above. This is relevant to Q's 4-6 on page 42, and Qs 11-13 on page 64.

With respect to Qs 7-10 on page 54, we are broadly supportive of approach proposed.

ROUTE REQUIREMENTS & SCORECARDS;

5.1   We believe that our main comments are outlined above.

POSSIBLE MEASURES OF THE SYSTEM OPERATOR'S PERFORMANCE

6.1   We agree the need for the establishment of an appropriate regulatory measure for the System Operator (SO)

6.2   With respect to Q1 on page 11, 'smart' engineering access planning is very important to the supply chain as outlined at the Efficiency Seminar on 19 September.

6.3   With respect to paragraph 3.12 and 3.14 on page 21 and Box 3.1 on page 22, we would absolutely stress the importance of early-stage development of projects being critical to their success. In many other responses and forums, RIA has repeatedly called for early contractor involvement to ensure projects are at an appropriate level of maturity before commitments are made. There seems to be no reference to supply chain involvement here, or indeed elsewhere in the document – see 4.1 above.

6.4   Regarding 3.24 on page 24, we strongly agree that the impact of enhancements on renewals activity is likely to become increasingly important and needs to be undertaken to a high standard to support orderly and efficient change-control.

6.5   Regarding 3.28 on page 25, we would refer you to our comments on underground services in 4.2 above

CONCLUSION

7.1   We hope these high-level comments are useful. As mentioned earlier, we would be happy to discuss these further in our upcoming meeting, and at subsequent regular bilaterals between ORR and RIA.

Peter Loosley
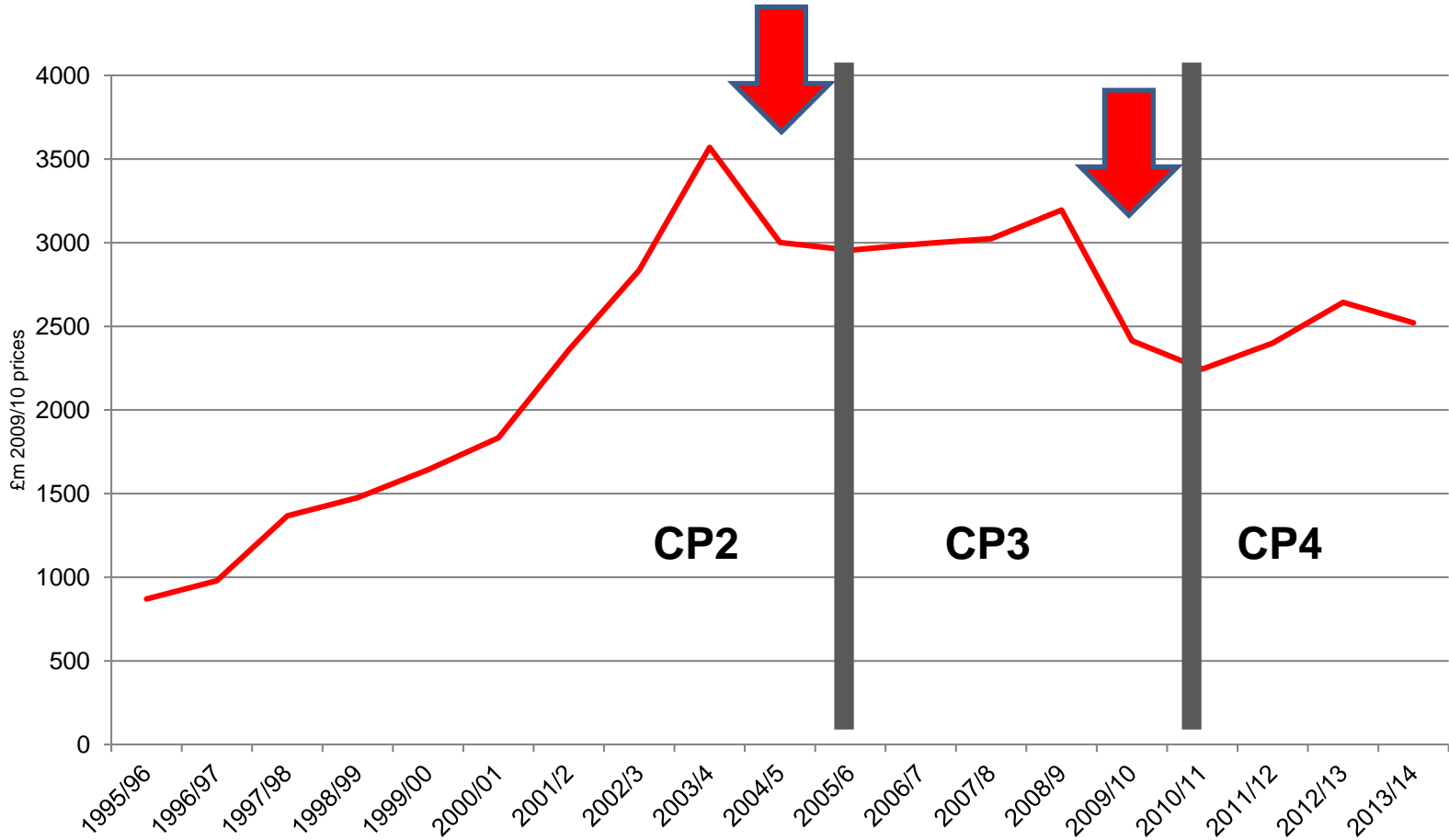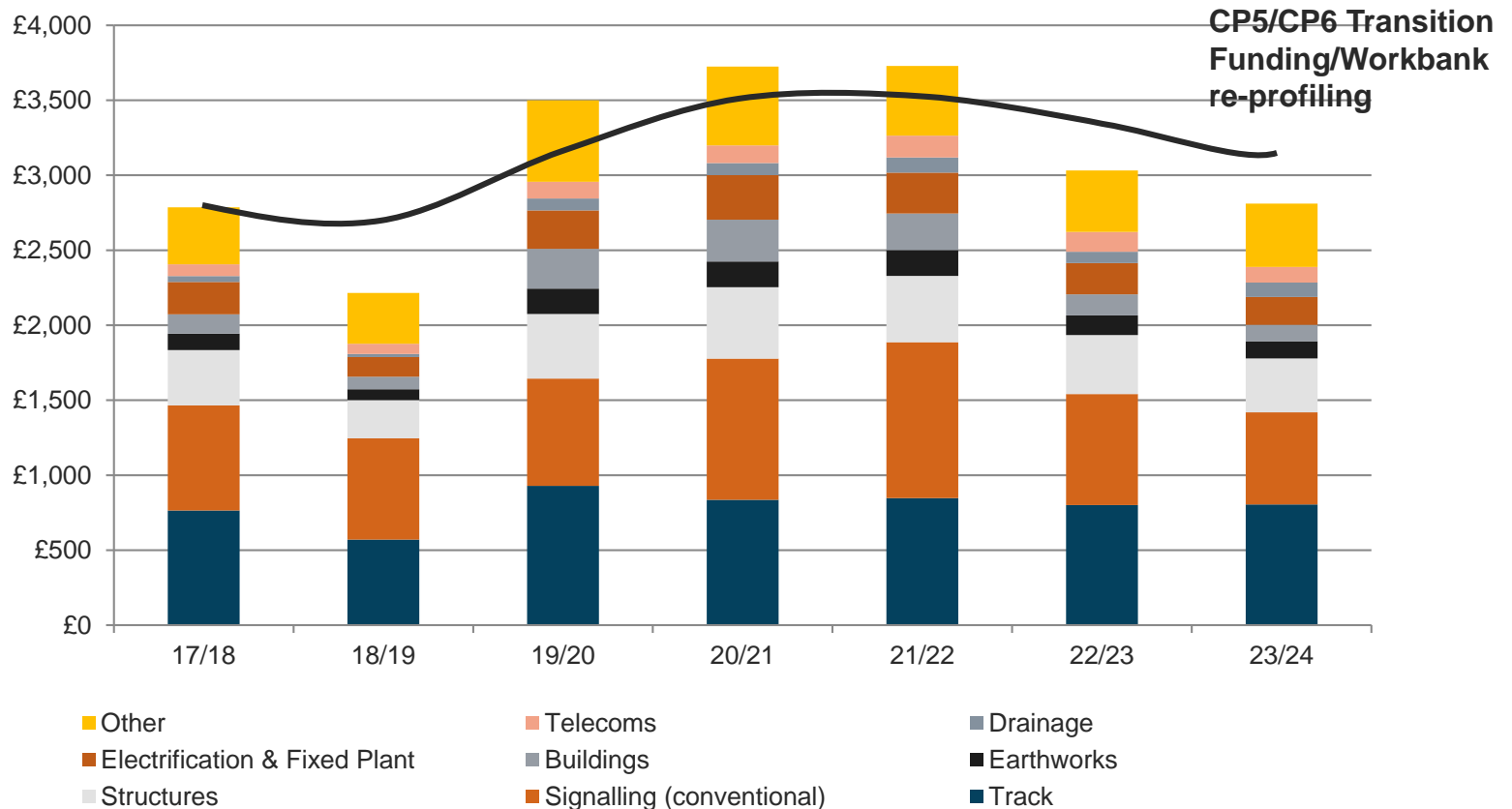
Peter Loosley
Policy Director

Railway Industry Association
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Company No. 10036044
Company Limited by Guarantee registered in England & Wales

Network Rail renewals expenditure 1995/6 – 2013/14

CP6 Renewals*

Renewals Spend Profile - RF2

CP5/CP6 Transition Funding/Workbank re-profiling

Legend:
- Other
- Electrification & Fixed Plant
- Structures
- Telecoms
- Buildings
- Signalling (conventional)
- Drainage
- Earthworks
- Track

Years: 17/18, 18/19, 19/20, 20/21, 21/22, 22/23, 23/24

* Based on RF2 inputs – subject to Business Planning and ORR Determination

Office of Rail and Road

Consultation on the overall framework for regulating Network Rail

Introduction

SEStran (South East Scotland Transport Partnership) is the Statutory Strategic Transport Planning Authority for the eight Councils in South East Scotland centred on the City of Edinburgh. SEStran welcomes the opportunity to comment on the 2018 periodic review (PR18), on the overall framework for regulating Network Rail. SEStran welcomes the consultation document on the high-level approach to PR18 and CP6 and is encouraged by the strong approach to consultation with all stakeholders.

Geographical Context

It is understood that responsibility for day-to-day operation and management of the railway is devolved to eight geographic routes. However, in terms of the proposal for disaggregation of measures, SEStran would welcome further articulation of how this will be reflected to stakeholders across the different geographies of the UK.

Further clarification would be welcomed as to whether there will be one strategic plan for Scotland, in terms of a consolidated version that includes all routes. We would support the proposal for at least a decade context for the determination, given this would fit with the timescales for local development plans and shorter horizons for initiatives such as City Region Deals.

It would be helpful to have NSO performance at a Scotland level and we would welcome the suggestion to disaggregate information further, which would help in the making and evidence proofing of some of NSO's difficult trade-off decisions between different customers and geographies.

In addition to this, we would hope that any capability measures would focus on outcomes and would be disaggregated to a geography that allows local transparency and scrutiny by stakeholders. In terms of capability measures it may be helpful in future to provide further worked examples.

Route Requirements and Scorecards

We would presume that in terms of scorecards and route objectives, that the format of presentation will enable comparison and recognise the potential difficulty in devising objectives prior to the publication of HLOS and SoFA. In terms of appraising proposed improvements in a proportionate form to inform funding choices, will this be undertaken via some form of scenario planning, with a strategic and inter-connected appraisal, where not doing a certain project is recognised in terms of its impact on other related projects?

Supporting comparison between routes, SEStran would ask if there would be some form of benchmarking process formalised, via annual public reporting on scorecards and consolidated plans to enable a systematic analysis?

We would also welcome further discussion and detail on how effectively the application of a "penalty clause" approach on underperformance would work towards driving better performance. It doesn't immediately seem apparent from the proposals as to how varying revenue, presumably negatively, would help deliver the overall goals of the process. It is presumed that the performance would be rated against the scorecard proposals.

Revenue for the NSO potentially sets an appropriate organisational culture in progressing its objectives alongside a potential penalty clause. Further, it would be helpful, before providing a final comment, to have further information on where any revenue would be "lost", where it's removed due to NSO under-performance and where further monies would be earned from and against what scorecard to achieve additional revenues. There would also need to be a balance on incentives on some volume measures which could have negative impacts on other performance measures.

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

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

Stakeholder Engagement

In regards to wider stakeholder engagement for CP6 and the question of who are relevant stakeholders, SEStran would welcome inclusion of Communities, Councils, Planning Authorities and Regional Authorities such as Regional Transport Partnerships in Scotland. Furthermore, in terms of efficiency and financial performance, it would also be helpful to make mention of Communities rather than taxpayers.

Concerning the long-term system operation settlement, we would also suggest that in the LTPP process there is specific reference to the need to work with Regional land-use and Transport Planning Authorities.

We also welcome the proposal for routes to share with stakeholders a much wider range of material and would hope that would also be in a non-technical format to enable even greater engagement with communities and under-represented groups.

We welcome ORR's broad continued support for Network Rail's move to "continuous business planning". This would, for us, fit well with a wider landscape of varying timescales for national, regional and local strategies/plans across a number of subject areas.

With regards to safe asset performance, it may be helpful for non-expert stakeholders to have further detail on how you could depart from the first outcome of "safe" without being clear on the definition of "safe" as it will be subjective for certain communities of interest.

Finally concerning the proposals for Network Rail's approach beyond the SBP and during CP6, is there an implied consultation on the update of the annual business plan when new information is available? Will this be a wide-ranging engagement opportunity or specific to the new information? In terms of the grading of route SBPs, SEStran would welcome the good practice guidance to be published.

STAGECOACH *GROUP*

David Dingwall

PR18 Programme Executive

Office of Rail and Road

One Kemble Street

London

WC2B 4AN

Ref: ORR PR18\framework for regulating NR

21 September 2017

Dear David,

Stagecoach Group and Virgin Trains (incorporating East Midlands Trains, Virgin Trains East Coast and West Coast Trains Ltd.) Response

PR18 Consultation – Overall Framework For Regulating Network Rail

Stagecoach Group and Virgin Trains (SG & VT) welcome the opportunity to respond to the PR18 consultation on the overall framework for regulating Network Rail (NR). We structure our response to this consultation to be based on the consultation documents published on 27th July 2017 and to include some general observations. We are also broadly supportive of comments made in RDG's responses to this consultation.

We welcome ORR's decision to increase focus on regulating each of NR's route businesses in CP6 and to compare data from the route strategic plans on a consistent basis. ORR considers that a well defined System Operator (SO) will complement its greater focus on route-level regulation. We assume that train operators' primary relationships with Network Rail will be through the route management structure, with the SO being a 'supplier' to the routes. We look to ORR to confirm this assumption. We agree that the roles of the SO should be distinct from routes and be increasingly independent from the routes. That said, the routes and the SO must continue to improve engagements with train operators; both passenger and freight to understand what their priorities are and ensure their needs are met.

Scorecards (Routes / SO)

ORR proposes to use scorecards in CP6 to 'formalise' expectations for what is to be delivered by the routes and the SO, and monitor how well different parts of NR are delivering. SC & VT wholly support the principle of improving how NR is measured and the scorecard would appear to be an appropriate management tool with which to do this. However, in our view, it is somewhat vague in terms of the actual definition of scorecards; what they truly represent, how they will be used and how they will truly incentivise performance improvement, when there are no real tangible penalties for non-delivery or rewards for over-delivery over and above today's regimes. It is extremely important in our view that the scorecards measure real outputs i.e.

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engineering volumes, and not just inputs and NR spend. Whilst the ORR expects NR to set targets which are agreed between NR and train operators and allow the parties greater autonomy over what are to be delivered, somehow they need to be contract deliverables and not just being used as a working document for discussion between NR and access beneficiaries.

It is important to have a jointly developed, balanced suite of meaningful measures in the scorecards which focus on the right outputs in line with the development of business plans and franchise agreements as part of the PR18 process and throughout CP6 and for the ongoing monitoring of NR's performance. In relation to customer-led scorecards, we support the inclusion of high level measures which should align with franchise targets and ultimately supports the delivery of commitments in existing and future franchises focused on outputs that deliver improvements for the end customer, recognising that it is the operator that holds the ultimate end customer relationship. However, it is not clear in the consultation document how the scorecards will be linked to franchise agreements and performance benchmarks that are contractualised between the franchisee and the DfT. Scorecards that are not linked to franchise agreement outputs and performance measures would be wholly irrelevant to an operator. We would welcome further clarity on this and ORR to share its thinking in this regard.

In order to allow the scorecard to be agreed, it is essential that the TOC has clear rights to setting performance levels to ensure that franchise obligations, notably premia and customer satisfaction can be delivered. The ORR must ensure that these are explicit in the CP6 settlement (as now). There is clearly no incentive for the Route MD to agree a stretching figure, or one which was required by the DfT in the ITT for a franchise. In a situation where Network Rail is unable to reach agreement with its customers in this area, we would expect the ORR to determine what the relevant and acceptable targets should be that must be achieved by NR.

In relation to specific measures, we would like to include the prioritisation of average journey times as a measure on route and SO scorecards and consider this is consistent with inter-city operators' operational priorities. This is an avenue that SG & VT businesses are exploring via Schedule 5 of the Track Access Contract.

It is noted in the consultation document that NR's scorecards for CP5 have generally not reflected PR13 regulated outputs, instead updating targets annually. This says that the use of scorecards could be a useful management tool for providing data and information, but most importantly they need to be accountable against a set of meaningful criteria and monitored carefully ensuring it delivers against its targets. Our concern again is where there is non-delivery and we would like to understand further from ORR how the scorecards will be a true incentive for improved performance.

SC & VT consider the System Operator to be a 'supplier' to the NR Routes and therefore our main relationship will continue to be with the NR Route. This does not mean however, that we do not have views on the SO scorecard. In terms of developing scorecards for the SO, it will undoubtedly be challenging to develop a balanced scorecard for the SO, owing to its wide range of responsibilities in planning, operation and coordination of the rail system. The output measures in the SO scorecards would be very much qualitative which is difficult to measure because it would be very difficult to distill every aspect of the SO works into quantitative measures. Therefore, it will be unlikely to represent the full spectrum of its activities in a Scorecard that would meet the ORR's requirements as set out in the consultation. What we do need to understand from the ORR though is when there is conflict between NR Route and

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SO how this could be resolved and what the escalation points are for the operator if it is dissatisfied with any outcome.

Whilst the SO is part of NR, it is crucial to have some significant independence in governance, given that the remit of the SO is to draw all different priorities together to deliver solutions that get the most out of the network overall to deliver best value for UK Rail end customers. It is likely to see cases where this may be in conflict with the interests of the Routes, or indeed NR in its entirety. It is essential for the ORR to monitor and regulate the SO on this ensuring that the SO does make these tough decisions and does not allow NR to become further risk averse.

Stakeholder Engagement

We recognise the potential benefits of effective customer and stakeholder engagement; it will certainly strengthen closer working relationships between NR and train operators, which should help increase efficiency, physical outputs and reduce industry-wide costs.

Alongside the publication of '*PR18 consultation - Draft Guidance on Network Rail's Strategic Business Plans*' in January 2017, NR routes undertook the process of stakeholder engagement as part of ORR's aspiration to involve train operators in the preparation of their strategic business plans. So route stakeholder engagements have started since January/February; it will be useful to have feedback on how the engagement process has been so far across all routes i.e. how NR routes engaged, with whom they engaged and how effective it was from route to route, so that we can build on experience and improve the process gradually. We anticipate that the engagement practices will continue throughout the PR18 process and from CP6 onwards and we must continue to improve with the conclusion of PR18.

The concept of stakeholder engagements is good but it has to be implemented consistently across the routes. As stated above, the engagement process has already started, but there is a lack of visibility of how frequently and efficiently the routes have engaged with various train operators and how the routes follow up over discussions with train operators, either collectively or individually. In relation to the SO and the development of SO management scorecards, we realise that not many operators have knowledge of this particular development and in our opinions the communications have been ineffective in this area and some operators have not yet been approached to discuss the output measures for the SO scorecards. We look to the ORR to ensure NR manages this engagement process consistently and effectively.

The consultation documents have no mention of route governance on how the engagement process is to be structured, monitored and governed, and it is unclear what the structure of responsibilities are by routes. Hence, it is not straightforward to make comparisons between routes based on the current practice of liaisons and discussions between access beneficiaries and NR on the development of the route strategic plans and scorecards. Perhaps ORR should consider one of the mandatory elements of the scorecard is an engagement score, scored by the operator?

Monitoring & Enforcement

We understand the proposal to use reputational, procedural and management incentives in a proportionate way where performance reaches unacceptable levels. Given NR's reclassification to a public sector body, the imposition of fines would have little impact on NR for poor performance and would be ineffectual in the current climate as there would be cuts on spending elsewhere or de-scope of major projects which is not of access beneficiaries'

STAGECOACH *GROUP*

best interest. However, the industry's current reputation is not good, so we would like the ORR to ensure that these non financial 'penalities' will be effective and look forward to the ORR sharing its thinking in this sphere if NR (either the Route or SO) fails to deliver against its scorecard commitments.

I hope this input is useful. Managing through the use of scorecards is a useful management tool and if jointly developed ensure collaborative working. We are looking forward to working with the ORR and NR to take this workstream further to ensure the scorecards are meaningful tools

Yours sincerely,

Neil Micklethwaite

Stagecoach Rail – Commercial Director

Periodic Review 2018
Office of Rail and Road
One Kemble Street
LONDON
WC2B 4AN

20 September 2017

Dear Sir/Madam

Period Review 2018 – consultation responses from Transport Focus

Transport Focus is the statutory independent watchdog for rail passengers in Great Britain. We welcome the opportunity to respond to the Office of Rail and Road's (ORR) three current consultations about the Period Review 2018. We see the Periodic Review as an important opportunity to ensure that the outcomes expected of the railway between 2019 and 2024 are closely aligned with passengers' needs. In the attached document, Section A deals with the overall framework consultation; Section B with the scorecards consultation; and Section C with the System Operator consultation.

Much of what ORR is proposing Transport Focus strongly supports, including Route-based regulation as a principle. However, in two areas we have significant concerns. In summary we believe:

a. Drawing on best practice from other regulated sectors, ORR should require Network Rail to engage with passengers, as the ultimate customer of its product, to a greater degree than is proposed;

b. ORR should require Network Rail to define success primarily in terms of passenger outcomes rather than technical or financial inputs or outputs; and

c. ORR should use the new 'on time, all stations' measure to compare performance across the Network Rail Routes rather than delay minutes as is proposed.

We would be pleased to elaborate on the points above or any other comments in this document.

Yours faithfully

Guy Dangerfield
Head of Strategy

Encl.

Transport Focus is the operating name of the Passengers' Council

A. PR18 Overall Framework consultation

Transport Focus has confined its comments to areas which seem most directly relevant to passengers' interests. If we have made no observations in relation to particular themes we are broadly supportive of ORR's proposals.

Chapter 2 – Route-based determination

Transport Focus welcomes the intention to regulate each Route and the System Operator separately. In addition to the 'rivalry' benefits that benchmarking will bring, it is clear from the National Rail Passenger Survey and from research carried out in relation to franchising that passenger expectations differ from route to route.

Chapter 3 – scorecards

Our response to ORR's scorecards consultation is provided in Section B, which includes our major concern that it is not proposed to use the new 'on time, all stations' measure as the consistent comparator between Routes, but delay minutes. Transport Focus believes that every scorecard should include the new metric, alongside cancellations and the number of 'severely disrupted days', even if train companies and others argue in favour of other measures being used as well. We know from the joint Transport Focus/ORR research that this is what passengers want. We also know from our research that punctuality is the foundation on which trust between the industry and passengers is built. Incentivising Network Rail on the basis of how passengers define punctuality is surely the right thing to do.

We nevertheless welcome the concept of Route scorecards and the intention to use the National Rail Passenger Survey within them to track consumer satisfaction. The scorecards should help ensure that Network Rail focusses on what passengers really want on that route, reducing the potential to focus on asset management for its own sake or allow financial considerations to override those of passengers. We say *should* because it will depend on the extent to which the priorities *are* consistent with those of end users in the way you expect and whether passengers can *genuinely* hold Network Rail to account for delivery. We expand on our major concerns about this under 'engagement' below.

Transport Focus is broadly content with there being a small number of measures specified, so long as they are closely aligned with passengers' interests. We understand the concept of a target and a regulatory floor, but we think there is a significant danger that the floor will become the *de facto* target. Will passengers' interests be best served if the impression is given that ORR won't take much interest until performance gets close to or below the floor?

Chapter 4 – engagement

Passengers now provide the majority of the railway's income. Therefore it is more important than ever to focus on the identification and delivery of the outcomes passengers want. We recognise and welcome ORR's expectation that each Route and the System Operator must

meet the minimum requirements set out in 4.11 of the consultation and the principles set out in 4.16.

However, we think ORR should go further in requiring each part of Network Rail to focus more clearly on consumer benefits and in defining success in terms of delivery of clear consumer outcomes. While the analogies are not exact, the Civil Aviation Authority (CAA) in relation to Heathrow Airport and Ofwat in relation to water companies are focusing on the consumer to a much greater extent than ORR is proposing for Network Rail. The requirement on Routes and the System Operator to engage with the ultimate customer, passengers, appears weak and should be strengthened.

The CAA has rejected the view that airlines are an adequate proxy for the consumer interest, recognising the primacy of the airlines' financial interest. They are therefore proposing that the focus of the Heathrow business plan, and associated financial incentives and penalties, reflect not inputs or outputs, but consumer outcomes – with Heathrow charged with proposing these outcomes as a result of consumer engagement.

While we do not advocate independent Customer Challenge Groups similar to the water sector, we think ORR should go further in ensuring that Network Rail engages effectively with passengers and incorporates their views in its plans. Despite the guidance ORR has already given in relation to preparation of strategic business plans, the level of engagement with passengers does not give us confidence that this will happen during Control Period 6 unless you strengthen what you require. We also recommend that you strengthen the focus on meeting the needs of vulnerable consumers, an area where Ofwat (see paragraph 3.1, Page 35 of Delivering Water 2020: Consulting on our methodology for the 2019 price review) and the CAA are expecting more.

Transport Focus remains ready to discuss with Network Rail how we can help in this area through conducting a programme of passenger research, articulating the findings and helping Network Rail draw conclusions about the implications for its business. We see this as supplementing the passenger representative role that we hope to play, subject to funding, on the various Route Supervisory Boards (we currently sit on the pilot Western Route supervisory board and have been invited to sit on its East Coast Main Line and Wales equivalents).

In response to your questions, we believe ORR should set a clear expectation that it expects the Routes to involve passengers in shaping outcomes in the following areas:

- The standard of train performance that should be provided, which is likely to include levels of punctuality, cancellations and number of 'severely disrupted days'

- How engineering work should be planned and delivered to minimise disruption to passengers

- Defining the medium and long-term vision for the passenger services Network Rail should be able to facilitate.

Chapter 5 – incentives

In response to your questions, we agree that Network Rail's incentives as a government-owned company are more reputational – both to the entity and to its senior managers as individuals – and what ORR proposes appears appropriate. ORR should seek to guard against Network Rail becoming overly risk-averse or less ambitious as a result of reclassification.

Regarding data, the power of transparency as an incentive should not be underestimated. More should be done to help passengers and their representatives – elected and otherwise – access the information they need to hold Network Rail to account. While Network Rail makes a huge quantity of train performance data available through open data feeds, there is no official (or unofficial) consumer-friendly portal through which these can be readily interrogated. The Rail Delivery Group-sponsored www.mytrainjourney.co.uk website goes some way in this area, but further development is required if it is to truly deliver what is necessary. It is important that ORR secures genuine transparency in key areas as a means to empower passengers and stakeholders. Research suggests that passengers would rather the information came from an independent body like ORR, or was at least endorsed by one, than from the industry itself. ORR should therefore consider who is best placed to publish these data.

In a scenario where Network Rail performance is between 'regulatory floor' and the scorecard target and it has offered no credible proposals to narrow the gap, passengers would expect 'the authorities' to be intervening on their behalf. Whether improvement is best secured by making the scorecard target itself specifically enforceable, or by requiring an action plan that is reasonably likely to deliver it – and holding Network Rail to milestones – is difficult to predict. Perhaps it should be a horses for courses decision?

Chapter 6 – managing change
In 6.19 you anticipate that Network Rail would lead the change management process when there was a proposal to amend the outputs and/or targets within the Control Period. While that is fair enough, we strongly encourage that whatever is agreed by ORR at the end of that process is clearly articulated in the public domain. The purpose being that passengers, and stakeholders, can see clearly what has changed from the original determination and the rationale for that change. This will reduce the risk that change causes distrust of 'the system'.

B. Route requirements and scorecards

Chapter 3 – financial information

While passengers will, generally, be less interested in financial information than in that about the service they receive, an area that ORR may find useful to include in all scorecards for comparison purposes is the unit costs of key types of renewal activity.

Chapter 4 – asset management

First, it is vital that scorecards include a target for sustaining asset condition. We say this because of the disruption to passengers caused by infrastructure failure as track and signalling approaches life expiry. ORR's preferred approach, in 4.6, appears appropriate. We stress, however, that ORR must ensure transparency around whether the rate of renewal being achieved by each Route is keeping pace with the rate of deterioration – allowing action to be taken if not.

In 4.11 you are clear that you expect to see an asset condition score for the principle asset groups within each Route's strategic plan. We encourage you to require some geographic disaggregation, particularly within the larger Routes. An average for a Route, while self-evidently better than one national figure, could still mask undesirable variation. Regarding the station condition score, you will need to consider the implications of the various 99-year lease arrangements that now exist with a number of train companies.

Transport Focus strongly encourages ORR to expect Network Rail to be constantly striving to improve the capability of its product over time – and without an expectation that government or customers (direct or 'end user') should necessarily have to pay more. In a conventional market situation a supplier would need to improve its product, and without necessarily being able to increase the price, simply to stay in business. As a monopoly supplier, Network Rail needs to be required to do so. Transport Focus believes that ORR should require that Network Rail develops a vision for each line within each Route; and require that renewals always move things one step closer to that vision. This would allow Network Rail to break out of the 'ossification' caused by the capability that existed in 1994 being the objective for ever more. It would require Network Rail to rediscover the art of small incremental improvements towards a long-term goal. It would put a stop to the catch 22 situation in which signalling is renewed to match the historic capability of the track, and then a couple of years later the track and points are renewed to match the capability of the brand new signalling.

Chapter 5 – train performance

Transport Focus welcomes ORR's intention to have a consistent Route-level measure of performance in all scorecards, alongside other measures train companies and/or funders might propose. However, we are baffled that it is not intended to use the recently launched 'on time, all stations' metric which the industry, working closely with DfT, ORR and Transport Focus has developed. The proposal to instead use 'delay minutes', divided into primary delay, direct reactionary delay and indirect reactionary delay appears to run contrary to recent direction of travel. It also appears to satisfy few of the key objectives you set out in 5.23 – in particular ease of calculation (you are proposing weighting between Routes to account for greater reactionary delay being generated on busier routes) and credibility (it is highly likely that it will not be understood by passengers – a key stakeholder). Our strong view is that the only measure which meets your objectives is 'on time, all stations'. This will increasingly become the headline metric for the railway; it is surely appropriate for ORR to use the same measure to compare performance between Routes. Transport Focus encourages you to revisit this proposal.

Chapter 6 – passenger experience

Transport Focus welcomes the intention to use the National Rail Passenger Survey (NRPS) to provide a consistent, comparable measure of overall passenger satisfaction across each geographic Route. NRPS should also be included in the Freight & National Passenger Operators (FNPO) scorecard – passenger satisfaction must also matter to the FNPO, even if it is delivered primarily via the eight geographic Routes. We see merit in Route scorecards containing NRPS scores (the station aspects) for relevant Network Rail Managed Stations.

Chapter 8 – network availability

Transport Focus recognises the deficiencies of the Possession Disruption Index for Passengers (PDI-P) and we welcome ORR's intention to continue monitoring in what we agree is an important area. In terms of the most appropriate metric, we believe that measuring how much of the base timetable is altered on a given day to accommodate engineering works should be considered. It would be sensible to disregard inconsequential changes like re-platforming and very minor retimings, but we think a measure of 'timetable change', while not perfect, may offer a reasonable proxy for passenger impact.

ORR should also consider monitoring the number of days on which it is not possible to travel by train between key origins and destinations. This should encourage Network Rail to avoid closing parallel routes at the same time, and should encourage Network Rail to develop options that do not close lines entirely – or if that is necessary to offer an alternative route.

A crucial issue when it comes to engineering works is the accuracy of timetable information, including it being correct twelve weeks in advance (T-12) and amended thereafter in only exceptional circumstances. The System Operator has an important role in delivering this, which we discuss in Section C, but so do the geographic Routes. The System Operator tells us that there is a strong correlation between whether a train company bids accurately at T-18 and the timetable being correct in the public domain at T-12. Train operators tell us that a principal cause of their failing to bid on time at T-18 is that the Network Rail Route has not confirmed the detail of the possession in time for them to do so (and in some cases doesn't for weeks after T-18 has passed). Transport Focus therefore recommends that all scorecards measure Network Rail's success at planning possessions so train companies can bid accurately at T-18 without the need for subsequent change.

C. Measures for the System Operator's performance

Leading strategic planning

Our views about Network Rail's role in developing a vision for the network are covered in Section B. In terms of measuring the System Operator's effectiveness in this area, while there will be elements of its role in strategic planning that lend themselves to a quantitative measure, ORR should consider requiring Network Rail to canvass views among those they involve the process to establish how well it is working for them.

Producing the timetable

On a day-to day-basis, the System Operator's role in producing the timetable is vitally important to passengers – whether it be the quality (in a 'does the timetable deliver high performance' sense), or in terms of timely publication of amendments to the base timetable because of engineering works or other reasons. Many of the proposed measures of the System Operator's performance look valuable, however it appears that D2, D3 (which we assume should read 'delay minutes', otherwise D3 and D4 look identical), D7, D8, D9 and D10 look most critical.

T-12 informed traveller

It is vital to have transparency about the level of post T-12 change, irrespective of who caused it. The level of post T-12 change for which the System Operator alone is responsible should also be reported. As mentioned above, whether a train company bids accurately at T-18 is closely linked to whether the timetable is correct in the public domain at T-12. We believe the System Operator should be responsible for reporting T-18 adherence by train company on a regular basis, allowing light to be shone on problems that would otherwise be hidden.

Improving the timetable

Clearly, the System Operator must invest in systems development to markedly reduce planning errors that will inevitably cause delay. Transport Focus also sees a key role for the System Operator in continually improving the timetable, 'consuming' as much data as it can from as many sources as possible to understand how the timetable 'behaves' in practice and where there are opportunities to improve it. The improvements might be to underlying reliability, to journey times or to safety (for example, by identifying timetable adjustments that would make a Signal Passed at Danger less likely to have catastrophic consequences). We believe that the System Operator financial settlement, and obligations, should be sufficient to revolutionise capability in this area.

Facilitating high quality passenger information

The System Operator should invest to support train companies in providing high quality information to passengers, particularly when there is disruption. The better the information published by the System Operator, the nearer passengers will be to having a single source of the truth'. In particular:

- The System Operator should dramatically reduce the time it takes to publish a revised timetable, for instance in the event of heavy snow being forecast. While the part-year only 'day A for day B' process is better than the underlying 'day A for day C', it remains insufficiently agile to deliver what passengers need. A decision by the train company is still required earlier than is desirable (the weather forecast may change) and once a decision has been made it takes too long for the revised timetable to 'hit' the journey planners passengers use.

- The System Operator should, through its output from the Train Planning System (TPS), help passengers understand what is happening when timetables are temporarily amended. Journey planners have no means of knowing that the trains they are 'returning' are different from normal – they give no context in which passengers can assimilate the information provided. For example, when a freight train derailed recently near Ely most journey planners did not explain why there were no through trains from Cambridge to Leicester. The System Operator should work with train companies and journey planner suppliers to deliver a 'single source of the truth' that TPS can provide in these circumstances.

Network Change process

In 3.29 and 3.30 you refer to the fact that the System Operator has a key role in the Network Change process but is not always accountable for producing the documentation relating to it. It appears that this is an area where absolute clarity about the Routes' obligations and the System Operator's would be helpful.

Transport Focus
September 2017

Response to ORR's consultation on possible measures of the system operator's performance (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 **21 September 2017**.

Full name	Amanda White
Job title	Head of Rail
Organisation	TfGM
Email*	
Telephone number*	

*This information will not be published on our website.

Question 1 (Chapter 2):

Are there any substantive areas of the SO's activities that you consider are not outlined, and where its performance should be measured?

Currently the SO's activities are ambiguous, and the prioritisation of their activities is unclear. TfGM would welcome the clarification of these activities and priorities through an output measurement process linked to payment incentives. The wider scorecard consultation for PR18 points to the SO providing the overarching governance and homogenisation of Network Rail devolved routes. TfGM would welcome a joined up approach for the North, uniting the routes which make up the franchise areas governed by Rail North and an understanding of exactly what role SO will play in this and measures to ensure this is a monitored outcome and is embedded in the culture of the devolved Network Rail.

Question 2 (Chapter 3):

What are your views on the measures outlined with respect to strategic planning and managing output changes? Are there any additional measures that you think would measure and incentivise the SO's performance in this area?

We think that the approach of having performance measures for the SO is sound and integral to motivating the right outputs and focus which has far reaching implications across the rail industry. TfGM would welcome the opportunity to workshop the strategic planning and managing output measures. We have detailed comments and inputs which do not suit comment to the consultation in this format and ideally need to be worked through in detail with the SO.

Question 3 (Chapter 4):

What are your views on the measures outlined with respect to managing the framework for access rights, producing the timetable and use of capacity? Are there any additional measures that you think would measure and incentivise the SO's performance in this area?

Again, we this this is vital to ensure the correct SO outputs and focus. As per question 2, TfGM would welcome the opportunity to workshop the framework for access rights, timetable production and capacity utilisation output measures. We have detailed comments and inputs which ideally need to be worked through in detail with the SO.

Some additional potential measures which we would like to discuss are:

- Some measure of degree of extra capacity provided to meet agreed LTTP targets – suggest testing against <u>Prospering in Global Stability</u> (high growth) and <u>Struggling in isolation</u> (low growth) forecasts. This may want to be subdivided into such matters as longer trains (platform lengthening, extra stabling space, power supply); extra tracks
- Some measure of stabling /depot capacity – perhaps a ratio of number of coaches in service in an area relative to depot/stabling capacity in area
- A measure of the amount of "white space" left in the timetable to cope with perturbations
- A measure of the network availability split down by time periods

Question 4 (Chapter 5):

What are your views on the SO management performance measures outlined, and are there any additional measures which you think would measure and incentivise the SO's performance in these areas? We would particularly welcome suggestions on the SO's role in contributing to system safety.

Again we believe this is important and needs to be worked through in detail in a workshop environment.

Question 5 (Chapter 6):

What are your views on our proposed criteria for identifying possible ORR-determined SO measures?

Again we believe this is important and needs to be worked through in detail in a workshop environment.

Question 6 (Chapter 6):

What are your initial views on what measures, if any, ORR should consider setting as ORR-determined measures?

Again we believe this is important and needs to be worked through in detail in a workshop environment.

Any other points that you would like to make

TfGM believes that Annex A is critical to this consultation and the drivers and culture of the SO going forward. It is for this reason, together with our experience of the different elements of the SO's function as a strategic planning function and a function bringing together the devolved routes of Network Rail, that we would welcome an opportunity to collaboratively 'delve into the detail' and go through consideration of your suggested measures and new suggested measures of our own with the SO in order to get this right. There are many lessons to learn from previous experiences such as the May 18 timetable change which lead to some quite specific suggestions we would like to discuss.

As such we wholeheartedly welcome and support this consultation and the ability to comment and the opportunity to work with ORR and the SO to get this right for the future.

Response to ORR's consultation on possible measures of the system operator's performance (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 **21 September 2017**.

Full name	Alan Smart
Job title	Principal Planner, Rail Development team
Organisation	Transport for London
Email*	
Telephone number*	

*This information will not be published on our website.

Question 1 (Chapter 2):

Are there any substantive areas of the SO's activities that you consider are not outlined, and where its performance should be measured?

TfL considers that the areas of activity of the SO are outlined in the document in a satisfactory manner. The SO's performance should be measured across all the activities that it undertakes, using a mixture of quantified targets where possible combined with qualitative information including regular feedback from key stakeholders. This feedback should be used to create further actions to address identified shortcomings that can be monitored until they are delivered.

Question 2 (Chapter 3):

What are your views on the measures outlined with respect to strategic planning and managing output changes? Are there any additional measures that you think would measure and incentivise the SO's performance in this area?

The document specifies a number of measures in this area. TfL's view of each of these is detailed below in the response to this question.

Role in Strategic Planning

The following measures are the most useful:

- Progress against planned milestones for the Long Term Planning Process (LTPP) Studies. It is important that these progress to the intended schedule to give stakeholders an up to date overview of the expected evolution of rail demand over time and the options available to address the associated constraints;

- Demonstrable consideration of non-infrastructure solutions within all strategic planning documents. It is important that these receive full consideration given the financial constraints that the industry is now facing. Any such solutions proposed should consider their impact on customer journey time carefully;
- Stakeholder satisfaction with LTPP (e.g. by way of a survey and comparison among market/route studies). This is important to ensure that the SO is engaging effectively with stakeholders, utilising their expertise and data/insights and reacting positively to their requirements;
- Accuracy of forecasts contained within the LTPP, e.g. growth forecasts. It is important that all funders have confidence in these otherwise there is a risk that the willingness to invest in rail will reduce over time;
- Delivery of milestones against an improvement programme relating to the SO's capability in this area (if included in its strategic plan). It is important that such milestones are incorporated into the SO's strategic plan and that they reflect concerns raised by stakeholders.

Measures relating to the success of the SO in attracting funding are less useful as this will depend on its availability and also the attitude of the Routes concerned which is key in terms of giving funders the confidence to invest in enhancement projects.

Role in early stage development of enhancement projects

The following measures are the most useful:

- Progress against planned milestones for development of projects e.g. against relevant Memorandum of Understanding milestones or relevant GRIP stages. This should help to ensure that these progress to a reasonable timeframe;
- Delivery of milestones against an improvement programme relating to the SO's capability in leading the development of projects. These need to reflect any concerns expressed by stakeholders in this area.

Role in tracking funding and output commitments at portfolio level

The following measures are the most useful:

- Proportion of Enhancement Delivery Plan change controls attributable to the SO's failings (e.g. poor analysis relating to timetable implications). This is useful for understanding and correcting process and data flaws;
- Delivery of milestones against an improvement programme relating to the SO's role in tracking funding and output commitments (i.e. in acting as the internal 'client' for projects). This must reflect concerns expressed by stakeholders.

The concept of an "average benefit cost ratio" requires further definition. Individual projects will have benefit cost ratios that should be updated throughout the project development process to ensure that the projects concerned remain value for money.

Role in benefits realisation

The following measures are the most useful:

- Variance between forecast benefits of an enhancement (including any change control) and the final benefits realised after completion. This is critical to understanding and improving the accuracy of the parameters used to create business cases;
- Delivery of milestones against an improvement programme relating to end to end planning. This needs to reflect stakeholder concerns;
- Accuracy of the sectional appendix (e.g. number of errors identified by operators). Errors need to be addressed to ensure that the data used to inform the timetable planning process is accurate.

Role in informing the franchising process

The following measures are the most useful:

- Progress against franchising authorities' milestones relating to the SO input. This is key to ensuring that the SO works to meet the requirements of such authorities when they are planning franchise changes. It should apply equally to concession arrangements of the type used by regional transport authorities such as TfL to operate services as well as to bespoke operating arrangements such as those that enable the operation of London Underground services on Network Rail's infrastructure;
- Quality of advice provided to franchise authorities. Any assessment here should be based on the views expressed by the authorities regarding the SO's performance, gathered in a structured fashion. As discussed in the response to the question above this process should apply to all types of rail operations used by funding bodies, not just franchises.

Question 3 (Chapter 4):

What are your views on the measures outlined with respect to managing the framework for access rights, producing the timetable and use of capacity? Are there any additional measures that you think would measure and incentivise the SO's performance in this area?

The document specifies a number of measures in this area. TfL's view of each of these is detailed below in the response to this question.

Management of the framework for granting access to the network

The following measures are the most useful:

- Quality of advice regarding availability and use of capacity (including Network Rail studies). This could usefully be developed by researching and introducing a more appropriate framework for the use of network capacity based on customer journey time, using the concept of Generalised Journey Time to better reflect customer requirements in this area. This should be allied with a better understanding of the relationship between changes in demand and performance to ensure that opportunities for providing additional services are given due consideration;
- Delivery of milestones against an improvement programme relating to the provision of information on capacity availability/use. This is key as often the information currently available in this area is inaccurate and needs to be updated to reflect current performance levels that are driven by modern infrastructure and trains. It is critically

important that this information is up to date to ensure that the advice provided to stakeholders on matters relating to capacity is accurate.

The SO needs to be incentivised to ensure that matters beyond timetabling and performance are considered in a structured and efficient manner as part of any service change process, covering areas such as power supply, service control and safety.

Measures relating to timetable production

All of the measures listed in table 4.2 are of potential value. It is important that the data collection process relating to train movements is modernised and automated as far as possible to ensure that the working timetable can be constructed using the correct base, minimising errors and resultant operating problems. The timetable construction process should also be automated as far as possible to enable the more rapid investigation of options and to ensure that production deadlines are met.

Measures relating to the use of capacity

The following measures are the most useful:

- Number of journey time or line speed improvements identified. These are important to the delivery of additional capability so the SO should be incentivized to seek opportunities for these at key locations;
- Delivery of milestones against an improvement programme relating to the use of capacity. These should reflect stakeholder concerns and should ensure that the requirements of different markets for rail travel are met, particularly in the context of urban areas where the provision of even interval services is important.

The calculation of capacity by the SO is a key issue. TfL advocates the use of journey time measures (e.g. Generalised Journey Time) rather than strict volume based outputs in this area to ensure that the timetable reflects customer requirements for the minimisation of journey time. Without such an approach there remains a risk that timetables are developed that maximise the capacity offered through the provision of an irregular pattern that lengthens journey times and disincentivises travel by rail. TfL does not therefore support the use of volume based metrics covering services and train kilometres operated as these do not necessarily indicate that capacity is being used in the manner that best reflects customer requirements.

Question 4 (Chapter 5):

What are your views on the SO management performance measures outlined, and are there any additional measures which you think would measure and incentivise the SO's performance in these areas? We would particularly welcome suggestions on the SO's role in contributing to system safety.

The document specifies a number of measures in this area. TfL's view of each of these is detailed below in the response to this question:

Financial performance

Measures focused on efficiency are the most useful. It is important that the spend required to produce a unit of output can be observed over time to enable adverse trends in this area to be identified and addressed, giving stakeholders the continuing confidence to invest in rail.

Customer satisfaction amongst SO Stakeholders

The measures proposed in table 5.2 are appropriate. The opinion of all those who interact with the SO on a regular basis should be assessed in a structured fashion. This process must identify problems and concerns that stakeholders have with all aspects of the SO's operations, enabling the formulation and tracking of action plans to address these as part of the SO's Business Planning process.

Question 5 (Chapter 6):

What are your views on our proposed criteria for identifying possible ORR-determined SO measures?

The framework proposed is appropriate, as it focuses on situations where the SO has failed to take sufficient account of stakeholder requirements. This is an area where the ORR can usefully add value to the process by ensuring that the SO is held accountable to stakeholders for its performance and development plans through the provision of ORR determined measures. It will be important for the ORR to regularly discuss the SO's performance with stakeholders through the mechanisms outlined elsewhere in this consultation document to support this process and enable the creation of additional measures where required.

Question 6 (Chapter 6):

What are your initial views on what measures, if any, ORR should consider setting as ORR-determined measures?

This will depend on how the consultation/liaison process between stakeholders and the SO develops. There are some areas of longstanding concern that TfL would like to see addressed by the SO as a priority during CP6. These are listed below:

- Revisions to the Timetable Planning Rules (on an ongoing basis) to ensure these are accurate and reflect current achievable levels of performance;
- The development of alternative journey time based measures to replace cruder estimates of network capacity and performance, to better inform the capacity planning / allocation process and performance measurement;
- The development of a better understanding of the relationship between demand, performance and journey time to ensure that capacity planning decisions are not unduly biased against the provision of additional capacity;
- The development of an improved and more disaggregated knowledge base regarding customer demand and rolling stock capacity to inform the planning process;

• The development of the timetable planning process to incorporate a more structured approach to the analysis of changes on different parts of the infrastructure, particularly power, control systems and safety.
Any other points that you would like to make

Thank you for taking the time to respond.

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21 September 2017

Response to the ORR`s consultation on the overall framework for regulating Network Rail

Thank you for the opportunity to comment on the ORR`s PR18 consultation on the overall framework for regulating Network Rail. We have set out our position on the issues raised very clearly in a series of recent discussions with the ORR and in previous consultation responses. However, I thought it would be useful to summarise these in this letter.

Route-level regulation and Scotland`s Railways

As a consequence of executive devolution under the 2005 Railways Act, over the last ten years the Scotland route has had a significant degree of route-level regulation, with the route commanding a greater degree of empowerment than other Network Rail (NR) routes in England and Wales. This operational devolution has put the Scotland route in a good position, enabling it to work closely with the industry, both in terms of alliancing arrangements between NR and the ScotRail franchisee and indeed the broader arrangements in place with freight and national passenger operators, to support the development and implementation of more customer-focussed solutions that are better tailored to local conditions and priorities.

Such collaborative whole-industry approaches to meeting local needs is in alignment with one of the Scottish Government`s key objectives for the railway in PR18; namely to ensure that the regulatory framework for rail in Scotland is developed with the **needs and priorities of customers and funders at its heart** and is sufficiently flexible to adapt to local circumstances and priorities.

We note that there is a general consensus of support within the industry for the principle of increased local autonomy and collaborative working in the operation of the railway to ensure that customers` needs are met. Given the success that this has brought to the Scotland route, we broadly welcome the principle of route based regulation and increased local decision-making being delegated to individual routes across the GB network subject to several important caveats.

Scotland's experience with a now mature devolved route structure must be consolidated and strengthened further without distraction from activity elsewhere in the GB network. This was a principle clearly articulated in the Scottish Ministers' HLOS for CP6 and we would appreciate

assurance from the ORR on this point; that the regulatory framework at a policy and practical level is sufficiently flexible to accommodate this.

We would again, and in line with earlier consultation responses, reiterate our position that the regulatory framework should support the further devolution of NR Scotland route, in order to provide a greater whole-system approach and accountability to the Scottish Parliament, and enable all rail services to maximise their full potential through collaboration and more localised bespoke solutions. It remains our view that such a structure could be introduced with the appropriate safeguards in place to protect the interests of freight and passenger operators.

Route requirements and scorecards

The overall regulatory framework needs to enable,, support and incentivise NR in Scotland to focus fully on the efficient delivery of the outcomes specified by the Scottish Ministers   The system of regulation, including monitoring and enforcement, put in place by the ORR must bring reassurance to the Scottish Ministers that this will be the case.
We note the likely use of NR scorecards to measure performance against outputs at route level. While we understand the concept of scorecards as a tool to measure and track performance and we accept that the introduction of route scorecards is a new innovation adopted in 2016/17 for the first time, we would like to see more genuine engagement by NR with funders and passenger and freight train operators in devising their route scorecards and measures to increase their effectiveness. We understand from the consultation that the ORR is placing significant emphasis on the role of scorecards therefore meaningful engagement is essential if route level scorecards are to be a credible and fundamental means of measuring performance against the things that matter to NR`s customers, funders and the railway`s users. It should also be an important step in satisfying the governance arrangements put in place post reclassification.

We have concerns around the proposed use of comparative measures on route scorecards, their purpose and value, the potential they have for perverse incentives, or unintended consequences and would highlight that there is no point in comparison for comparison's sake. The value in comparative measures is perhaps clearer for the other GB geographic routes where the Secretary of State may wish to be able to compare between geographic routes within his jurisdiction. However, there is less obvious utility in comparing measures on a Scotland route geographic scorecard with those of the other GB geographic scorecards as the comparisons could have less meaning, or worse, compromise clear strategic intent.

Any measures on the Scotland Route Scorecard and other Scorecards which are over and above the very clear outputs reflected in the Scottish HLOS must not deflect from or compromise the essential and clearly stated outputs from our HLOS. It was not clear from the consultation how any potential or actual conflicts would be identified, risks mitigated and opportunities maximised in the development of scorecards, again an important consideration given the intended role for scorecards in CP6.

It was also not clear from the consultation how our HLOS requirements with respect to freight and cross-border operations would ultimately be reflected in the suite of scorecards, where for example a freight journey time improvement target could be best reflected and given effect in the geographic route scorecard, and the FNPO scorecard and the system operator scorecard.

The use of NR's management incentive scheme and its direct link to delivery should be a useful mechanism properly to incentivise performance against the measures on a scorecard. We would be concerned if the HLOS outputs and their measures on the relevant scorecards were

not directly linked to the management incentive scheme. This would break a clear line of sight between properly incentivised performance and alignment to NR's funder in Scotland.

Possible measures of the System Operator's Performance

There is a number of perceived system operator functions that the Scottish Government believes could be more effectively carried out if they were devolved to the Scotland route. This includes areas such as strategic timetabling, planning and capacity utilisation. As iterated previously the Scottish Government supports further route devolution, including those related to the system operator function, unless there was a clear and compelling case to retain central control. Only some 9% of passenger rail journeys from and into Scotland cross the border.

The system operator function has both a spatial and sectoral dynamic to it which may not always benefit from a consistent approach across the whole of the GB network. The right approach must be found to balancing differing needs including those of Scottish Ministers and optimum alignment between system operator functions and local priorities. It is not clear from the consultation how the system operator function will be measured in relation to how it services, or serves, the different geographic routes. The systems operator must support the SG in its strategic aims, influence, encourage and compel NR's centre to engage effectively with the Scotland Route, be capable of managing the impacts of enhancement programmes on services and timetables, and consider service and passenger impacts at a much earlier stage when planning renewals and other works, ultimately ensuring the minimisation of disruption. We would be very concerned if there was a perceived or actual increased role for the centre of NR.

We would also underline that to be effective the outputs of good system operation must correlate directly to the delivery of the HLOS and the broader social, economic and environmental priorities of the SG as the principal funder of railway activities in Scotland and we would look to the ORR with considerable regulatory experience to provide assurance on this.

Other considerations

We have been consistent and clear that any movement towards increased route-based regulation across the entire GB-wide network must respect the integrity of the current devolved settlement for Scotland, the separate funding arrangements for Scotland and the established principle of a separate Periodic Review determination for Scotland i.e. there can be no distribution of funds from the Scotland route to any other NR route including the emerging GB-wide routes without the clear and express agreement of Scottish Ministers. We would welcome further details and absolute clarity on how the ORR intends to regulate for this given NR`s legal status as a single company.

The role of NR's customers/stakeholders and the ORR in monitoring and enforcement needs to be more considered and clearly articulated and specified. It is the clear role of the regulator to hold NR to account and through this provide assurance to funders including Scottish Ministers on NR's performance. No other party, no other customer or stakeholder should be expected to fulfil this role of holding NR to account; this is clearly a different role to that of working with local stakeholders and ensuring alignment to local priorities and needs.

Given the unique position of the Scottish Government and some of our more fundamental policy level concerns and questions relating to the principles and theory behind the ORR's consultation we are not responding to the specific questions or using the pro-formas available. We feel that a better use of our collective experience and time would be to continue bi-lateral discussions and have a more focussed session with the ORR before we are able to provide opinion and comment on details.

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Conclusion

We reiterate the importance of an effective regulatory framework in driving the right behaviours and decision-making that will deliver a railway that is available and reliable and one that will align with the strategic priorities of the Scottish Government. We expect a flexible approach from the ORR which works as well for the Scotland Route and for the Scottish HLOS, as it does for other funders. Scottish Ministers also expect an approach which consolidates on progress in the current control period, learns from the Scottish experience of route-based regulation, and genuinely delivers in practice on the stated aims of a safer, more efficient and better used railway delivering value for passengers, freight customers and taxpayers in control period 6 and beyond.

We look forward to continued work with the ORR to achieve this.

Yours sincerely,

John Provan
Head of Rail Strategy and Funding

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Response to ORR's consultation on possible measures of the system operator's performance (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 **21 September 2017**.

Full name	Richard Thackray
Job title	Head of Timetabling and Diagramming
Organisation	XC Trains Ltd
Email*	
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*This information will not be published on our website.

Question 1 (Chapter 2):

Are there any substantive areas of the SO's activities that you consider are not outlined, and where its performance should be measured?

The National Access Planning team (as distinct from the FNPO) within the system operator has a remit requiring national access co-ordination and the collation of capacity studies across the national network. This is a high profile and high impact workload that has the support of the operating companies and is an output of the SO. We consider the measurement of the SO's performance in this area to be critical, especially given recent failures.

Question 2 (Chapter 3):

What are your views on the measures outlined with respect to strategic planning and managing output changes? Are there any additional measures that you think would measure and incentivise the SO's performance in this area?

A2 – it is important that we do not motivate the SO and the wider NR organisation to chase a high number of low cost capacity improvement options at the expense of a smaller number of higher quality options.

A7, A8, A9 – The scale of funding secured is a difficult measure as it is dependent on a wide number of external factors. A8 acts as a good measure of both the funding secured for projects and the quality of the original LTPP proposals.

Question 3 (Chapter 4):

What are your views on the measures outlined with respect to managing the framework for access rights, producing the timetable and use of capacity? Are there any additional measures that you think would measure and incentivise the SO's performance in this area?

C5 – XCTL support this measure

C7 – XCTL query why the SO are not accountable for this measure

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Question 4 (Chapter 5):

What are your views on the SO management performance measures outlined, and are there any additional measures which you think would measure and incentivise the SO's performance in these areas? We would particularly welcome suggestions on the SO's role in contributing to system safety.

D2 – A level of post T-12 change is down to SO failings. This should be measured independently.

D7 – The SO is not accountable for dwell time inconsistencies as this is subject to a wide range of external factors.

D9 – This would need to be modelled in an agreed way – does the industry currently have the capability to do this? If so then it would be a very useful measure.

E11 – Average speed of passenger services should also be measured to drive journey time improvements

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Question 5 (Chapter 6):

What are your views on our proposed criteria for identifying possible ORR-determined SO measures?

CrossCountry are supportive of this section.

Question 6 (Chapter 6):

What are your initial views on what measures, if any, ORR should consider setting as ORR-determined measures?

CrossCountry would like to see a sensible mix of measures proposed, focussing on governance/timescales of the various documented processes the SO works to (e.g. timescales set out in the Network Code), as well as measures of the quality of work carried out, albeit potentially in a quantitative manner. It is important to assess the performance of the SO formally on both.

Any other points that you would like to make

As a general comment, the ORR need to ensure that the responsibility of the SO is clear. As an example, we note that B10 is shown as a measure for which the SO is accountable, but 3.30 accepts that benefit realisation may not always be within the SO or NR's control. C7 then concludes that the SO is not accountable for identifying additional capacity. Each of the binary yes/no options for accountability need to be fully understood.

We also would like to see further development of the qualitative measures. Measures such as B2 use the phrase "Quality of". XCTL feel that this is a key area to be remedied prior to measurements being finalised, as quality is undefined. It would be preferred for quantitative measures to be developed that reflect the quality of work carried out by the SO.

CrossCountry would be interested in the use of headline statistics that can be further delved into if required. For instance, Network Code timescale compliance could be a headline figure looking at compliance for both Working Timetable compliance and Informed Traveller compliance, but further statistics would be available on the individual milestones if required. This would help keep a clean top level scorecard.

XC also recommend a review of the Network Code to ensure that the SO compliance with this agreed set of behaviours is measured as part of the scorecard, as this is effectively what the SO has signed up to do in each relevant area of it's operation.

In respect of the measurement of capacity, XCTL would be interested to see a measure on the use of pathing time in the timetable and the steps being taken to decrease its use by better optimisation of paths particularly at key 'pinch points' on the network.

We are supportive of all measures designed to motivate the SO to development, implement and deliver improvement plans in each of its areas of involvement,

Thank you for taking the time to respond.