

Carl Hetherington  
Deputy director, Railway markets and economics



29 March 2019

MTR Corporation (Crossrail) Limited  
c/o Jonathan James

Network Rail Infrastructure Limited  
c/o Melanie Foster

Dear Jonathan and Melanie

**Our determination of the Schedule 4 Sustained Planned Disruption cost thresholds for MTR Corporation (Crossrail) Limited**

1. This letter sets out our determination of the Sustained Planned Disruption cost thresholds for the track access agreement between Network Rail Infrastructure Limited ('Network Rail') and MTR Corporation (Crossrail) Limited ('Crossrail') (together 'the parties') for the next control period (CP6<sup>1</sup>).

**Background**

2. Under the Schedule 4 possessions regime, all passenger operators can enter into negotiations with Network Rail to claim actual cost compensation for the most disruptive possessions, known as Sustained Planned Disruption (SPD).
3. SPD claims are triggered where the level of costs faced by train operators due to possessions exceed pre-determined thresholds. SPD cost thresholds represent the minimum difference between Schedule 4 formulaic cost compensation and reasonably incurred costs over a number of consecutive railway periods.
4. In order for a claim to be triggered, the "SPD Cost Threshold 1" needs to be exceeded for at least 3 consecutive periods and the "SPD Cost Threshold 2" needs to be exceeded for at least 7 consecutive periods.
5. In our 2018 periodic review (PR18) Final Determination, we decided that SPD cost thresholds in CP6 (as set out in Table 1 below), should be the CP5 cost thresholds uplifted for the RPI measure of inflation.
6. There are two SPD cost threshold rates that apply for passenger operators, a higher and lower rate. In CP5, the lower rate threshold applied to Crossrail.
7. We wrote to Crossrail on 20 December 2018, saying that we would defer our decision on which rate should apply to Crossrail in CP6, as we wished to review whether the lower rate should apply. Accordingly, the review notice that we issued

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<sup>1</sup> CP6 will run from 1 April 2019 to 31 March 2024.



on 20 December 2018 to initiate the process of implementing PR18, provided for us to determine the SPD thresholds for the Crossrail track access agreement at a later date<sup>2</sup>.

### Our decision

8. We have decided, for the reason set out below that the higher rate SPD cost threshold should apply to Crossrail in CP6.
9. In CP5, Crossrail was operating only a limited amount of services whilst construction of the full Crossrail route was taking place. At that time, its annual revenues were in line with those operators who attracted the lower rate SPD cost threshold. So, the lower rate threshold applied in the CP5 contract.
10. However, during CP6, Crossrail will become fully operational once the route is completed, after which its expected annual revenues will be in line with passenger operators on the higher rate threshold. We have therefore decided that the higher rate threshold (as per Table 1 below) should apply to Crossrail from the start of CP6.

**Table 1: SPD Cost Thresholds (per railway period)**

SPD cost threshold rate	CP5 SPD Cost Threshold 1 (2012 -13 prices)	CP5 SPD Cost Threshold 2 (2012-13 prices)	CP6 SPD Cost Threshold 1 (2017 -18 prices)	CP6 SPD Cost Threshold 2 (2017 -18 prices)
<u>Lower rate</u>	£304,750	£609,500	£342,223	£684,447
<u>Higher Rate</u>	£609,500	£1,219,00	£684,447	£1,368,893

<sup>2</sup> See paragraph 2 of Appendix 1 to Part 1 of Annex 3 of 'Review notice: Franchised Passenger Track Access Agreements', available here: [https://orr.gov.uk/\\_\\_data/assets/pdf\\_file/0007/40012/pr18-review-notice-franchised-passenger.pdf](https://orr.gov.uk/__data/assets/pdf_file/0007/40012/pr18-review-notice-franchised-passenger.pdf).



Accordingly, through this letter we determine that, in paragraph 1.1 of Part 3 to Schedule 4 of the track access agreement between the parties that will apply on and from 1 April 2019:

- (a) the "SPD Cost Threshold No.1" shall be £684,447 (in 2017-18 prices); and
- (b) the "SPD Cost Threshold No.2" shall be £1,368,893 (in 2017-18 prices).

5. We will place a copy of this letter on our website and on our public register, in line with section 72(5) of the Railways Act 1993.

Yours sincerely,

A handwritten signature in black ink that reads 'Carl Hetherington'.

**Carl Hetherington**