

ORR's APPROACH TO TRANSPARENCY
RESPONSE TO CONSULTATION – NETWORK RAIL

1. Transparency is central to Network Rail's business strategy, and we are strongly committed to becoming a more open organisation. In the press notice which accompanied the June 2012 launch of the transparency portal on our website our Chief Executive, David Higgins, said "I believe in transparency. It helps improve decision making and can drive culture change in an organisation. Given the amount of money that taxpayers put into the rail industry, it is only correct they are given the right to scrutinise what their money is paying for. I believe Network Rail has to take the lead in opening up the industry to new levels of transparency and I hope others will soon follow that lead."
2. We support of the tenor of this consultation – that greater transparency is essential for all parts of the industry. We agree that – done properly – the potential benefits of transparency outweigh any negative consequences which might come from it. Network Rail is committed to working with its stakeholders to make ourselves more open in areas of our business in which there is interest, or from which benefits for others will flow. However, we do not believe that any regulation, whether light touch or otherwise, is necessary in this area.
3. We believe we have led the industry in setting a new benchmark for transparency, and have listed what we see as our main achievements below. But we recognise that we have a long way to go. We understand the continued expectation of immediate openness, but firmly believe that some of the best outcomes – as central government's open data agenda is showing – take time to be realised.
4. It is vitally important that the industry strikes the right balance between demonstrating its credentials quickly and giving itself the time and space to develop long-lasting programmes. If done properly, these longer term measures will lead to transparency becoming central to all aspects of our day-to-day work. This is Network Rail's ultimate goal.

Network Rail & transparency

5. We have done much over the past 12 months to start to become more transparent, and in doing so have taken forward work on a number of fronts. They include:
6. Appointing a head of transparency: We recognised the need to build the company's capability in this area. Rather than bolt responsibility on to another function, we felt that the focus and expertise required was best served by creating a dedicated post. Since he joined in November 2011, Mark Farrow has built a small team with a remit to ensure the transparency agenda is put and remains at the forefront of how we operate.

7. Making our data available for re-use: Adopting the principles in the Open Government Licence, and working in conjunction with the Department for Transport's transparency sector panel, we have made a range of data feeds from our operational systems available for developers through our website. At its peak soon after the feeds went live in June 2012, there were over 450 subscribers. This figure has stabilised since then at around 150, and we continue to work with a group of developers as they build web pages and apps which use our content.

8. Adding a transparency section to our website: These pages draw together the information and data our transparency programme has published so far, including for the first time:
 - a. budget and costs of our most high profile projects
 - b. assessments of our high risk level crossings
 - c. executive directors' business expenses
 - d. staff salary details

The decisions to publish these and other categories of information were informed by a number of factors, including transparency best practice elsewhere and requests and suggestions from the public. To generate a flow of ideas about where we can seek to improve our transparency offering, the pages also include a facility for visitors to suggest information and data they would like to see in the future, and we now handle requests made to us through the whatdotheyknow.com freedom of information website.

9. Publishing more on train performance: Working with train operators and the Association of Train Operating Companies, we now include more detailed assessments of performance against the industry's public performance measure in the periodic updates on our website. For the first time in July we published statistics on train performance to within one minute of scheduled arrival time, and are working with the industry to develop reporting against this measure in the most passenger friendly way. The Independent Reporter has just completed some work in this area.

10. Internally: Openness is at the heart of the way we want to operate. Managers are expected to give examples as part of the appraisal process of how they've behaved and worked in an open and transparent way, and there are a number of projects in their early stages looking at the sharing of knowledge and information within Network Rail about our people and our work. In addition, the ORBIS programme is working to improve the quality and availability of asset information we hold for the benefit of the whole company, and openness is central to many aspects of our developing safety culture agenda.

Our future direction on transparency

11. We will be interested in the conclusions ORR reaches based on responses to this consultation. We believe the industry must work together to reach a level of transparency which strikes the right balance between openness in the public

interest, and good business sense. In doing so, we will use the following principles:

- a. Alignment: Rather than a stand alone initiative, we want transparency to be part of how we engage the outside world in what we do, why we do it, and how we're performing. To do this, we will need to focus first on being transparent in key areas for us, our customers, stakeholders and the public. In addition, we think that we can align what we do in this area with transparency activity in other parts of the industry, particularly where joining up would make more sense to our audiences.
 - b. Engagement: We will listen to what people want to know about us or what we do. By doing so we hope what we offer will be relevant and informative. We will work hard to make ourselves better at providing specific information in response to queries or requests.
 - c. Improvement: We will always seek to do more, never claiming that we are "transparent enough". This will include improving and expanding what we already publish in certain areas, as we have done this year with for example our regulatory accounts.
 - d. Simplification: We will work to make our information and data easier to find, easier to understand, and easier to use by providing the appropriate context, removing superfluous and out-of-date material, and aggregating it in certain instances, as we have done with ten years' worth of our annual return data.
 - e. Benefits realisation: Where we can identify specific benefits, actual or anticipated, for ourselves or others we will work to ensure they are realised.
12. Our programme of proactive publication will continue later this autumn with updates to a number of the datasets we published in June, as well as entirely new material. This will include a range of procurement-related data and – working with Elgin, whose work to make highways and traffic data available on Open Government terms was endorsed in the 2012 Budget statement – information about road works we need to put in place as a result of our work on the rail network.

Transparency & Europe

13. When compared to practice on the continent, we believe transparency of regulation and infrastructure management in the rail industry here is extremely strong. Our joint processes and the independent status of the ORR mean our funding process is arguably the most open, something strengthened by our use of infrastructure regulated accounts and the variety of public reporting that Network Rail does, the practice of jointly appointing reporters, and the iterative nature of our funding process. Our transparent and collaborative capacity planning process is supported by the publication of the IPP and data collected in a wide range of fora, which enable us to provide the best possible support to our customers.

14. Across these areas, we recognise the value, benefits and need for quality information exchange with our customers in support of the efficient management of the network as a whole. We believe that a similar approach at a European level would drive the same benefits for many other networks.
15. As the European Commission moves forward with further industry reforms such as the fourth railway package we hope that ORR and Network Rail are able to work collaboratively to support the EU institutions in their goal of improving overall industry transparency and non-discrimination. The fact that ORR takes the chair of IRG-Rail in 2013 will provide a unique opportunity to champion this approach.
16. As reforms like those in the recast of the first rail package are incorporated into our regulatory regime there may also – if appropriate – be an opportunity for ORR to evolve its role and provide a coherent point of assurance for the level of transparency industry participants here need to provide to meet EU requirements. We would not want, however, additional European regulation to impose additional burdens on countries which have already achieved high levels of transparency voluntarily.
17. The benefits of these reforms should be felt in the UK, not just through new opportunities for our industry as a whole, but an improved ability to benchmark and challenge ourselves thanks to more readily available information and data and more informed regulators across the continent.

Responses to questions

Q1 – Content & functionality of the National Rail Trends portal

18. The portal clearly contains a comprehensive range of data, but it is not entirely clear what the proposed audience and use of much of it is. As an industry body, we are the originators of much of the data, but we find it difficult in many instances to think of who apart from ORR would be interested in what we provide. The usage statistics quoted in paragraph 3.34 of the consultation document suggest that the wider audience for much of the content is extremely limited. While this isn't necessarily conclusive proof that the data need not be there at all, it certainly points to the need to slim the content down to make it easier to access what is of broader value and interest.
19. The presentation of the data in our view hinders its accessibility and use – something the Public Accounts Committee concluded about government's data.gov.uk – as does the requirement to register to view certain datasets. We wonder whether opening the whole data store to developers on a hack basis might be a good way of discovering whether there might be any wider interest in and use for those datasets. We urge ORR to fully consider the overlaps between the information and data on the portal and that published by the industry.

Q2 – Publication of information about ORR’s work

20. We have looked at the information ORR publishes about its work and in particular its decision-making processes in respect of our activities. In a number of areas, the level of transparency is high. Where ORR has taken enforcement action against Network Rail, ORR has always been careful to explain the rationale for its decisions with reference to its published economic enforcement policy and penalties statement. This statement is also helpful in terms of understanding the factors ORR will take into account in determining whether or not to take enforcement action and the level of fine which may be imposed based on the seriousness of the breach.
21. ORR also publishes criteria and procedures for the approval of track access applications and guidance on its approach when considering appeals. A clear understanding of ORR’s approach in this area helps us to better understand the purpose of requests for information and to meet the required standards in our responses.
22. However, levels of transparency are not necessarily consistent across ORR and we believe that there are instances where they could go further. We are sometimes surprised to receive certain communications from ORR, and on occasion we do not clearly understand the scope or purpose of its intended activities. In recent months this has been particularly evident in considering the planned activities of the Independent Reporters.

Q3 – Publication of the results of ORR safety inspections & reports on the comparative performance of duty holders from audit & inspection activities

23. A high level summary description of the results of ORR’s inspection of duty holders’ activities is already provided in their Annual Health and Safety Report. Where specific inspection reports make recommendations for us, we develop action plans to address those which we accept. We are supportive of greater transparency of, for example, the results of specific safety inspections but urge ORR to ensure that where comparisons are made across duty holders, they are appropriate and consistent, and compare like with like or make clear the distinctions and differences in the particular roles of duty holders where a direct comparison is not feasible.

Q4 – Benefits or otherwise of duty holders reporting on best practice by the publication of specific KPIs

24. Network Rail produces a safety, health and environment performance (SHEP) report every four weeks. This report provides a summary snapshot of performance at the time that it is finalised, for subsequent internal review by our Safety & Sustainable Development executive team, and the company’s Executive Committee, Board and Safety, Health & Environment Committee. We also make the report available to external organisations, including the ORR and RSSB. We

would be happy to work with ORR towards the wider publication of specific KPIs, subject to the consistency and comparison qualifications mentioned in our response to the question above.

Q5 – Potential use of Network Rail’s historic performance data

25. As we say in paragraph 7 above, we continue to work with developers as they begin to use our real time train running feeds to develop products. We believe that our data is likely to be of most use when combined with other data, for example that made available relating to other modes of transport, and await the outcome of this consultation and imminent transport hack day events with interest.

Q6 – In what areas of its business could Network Rail become more open, and what information or data should be made available as a result

26. We set out in paragraph 11 our aspiration for our transparency programme to be responsive, and focus on making available the information and data in which there is genuine interest. We look forward to hearing the responses to this question.

Q7 – Views on the scope of ORR and industry activities – is the sector moving in the right direction, is the pace right, and are there other areas that would benefit from greater transparency and why

27. The industry is undoubtedly moving in the right direction. Great strides have been made in the past few months, and more will be made in the near future. Many of these have been a result of joint working, when things like understanding of customer demand and ownership of data can be considered in the round. Nonetheless, there is more to do, and having demonstrated its willingness to be more open, the industry has to build on its early offering. In some cases this will be straightforward, but in others it may take some time. It is important that the pressure to be ever more transparent does not mean longer-term initiatives are missed.

28. The themes of industry transparency must be informed by what our customers – all of them – are telling us they want to see. Too much ad hoc publication risks defeating the object of the exercise by obscuring what people consider most important. Many people want to be able to access only the information of most value and interest to them, for which reason the format in which it is presented is all important. Putting information and data in the right context, and with related content for ease of use is in some respects almost as important as publishing it at all.

29. We believe we can do more to explain both how the railway operates – and help the public understand why certain things happen – and how we spend the money we receive from government and elsewhere.

Q8 – Use of ORR’s statutory powers and how they could be applied in a transparency context

30. It should not be necessary for ORR to exercise its statutory powers in this way, and if there are instances in which the need for transparency in a particular area is in dispute, we would hope a satisfactory outcome for all parties could be reached by negotiation.

Q9 – Risks and pitfalls around data integrity and how best to address them

31. While we work hard to assure all information or data we publish, it is difficult in every instance to be 100% confident in its quality. This is why we believe that context and caveat is vital to transparency. However, where there is genuine and significant concern that publication of particular data or information would present a misleading picture in the area to which it relates, these concerns should be resolved to the satisfaction of every party involved before publication proceeds.

Q10 – Transparency initiatives resulting in positive change

32. In the two and a half years since the open data/transparency programme began, central government has struggled to find ready examples of initiatives which have driven positive change. Six months into our own, we can point to one example of developing transparency-related change, and one area in which we are hopeful change will come as a consequence of our work.

33. As covered in paragraph 12, we are working with Elgin to make our road works data available through their roadworks.org portal. We will be one of over 100 organisations – local authorities, utilities companies, the Highways Agency, and TfL – which publishes its data in this way. As well as direct customers using the map and search functionality on its website (which had over 4,500,000 hits in August), over 50 organisations use its API on Open Government Licence terms to feed products and services. These currently include utilities companies to aid planning and coordination, software companies to develop services for both public and private sector organisations, and local media companies to inform citizens of roadwork disruptions.

34. While it remains difficult to precisely quantify these benefits, we believe roadworks.org is a good example of why transparency should not be looked at solely as a means of publishing more and more information and data on the internet. Presenting it in context alongside similar data from other organisations is more cost effective and – importantly – increases the potential audience and uses for data. We expect to do further work over the coming months to establish whether the road works model could be applied to other parts of our business, both from an availability of information and data perspective, and as a way of improving our interaction with the public.

35. In paragraph 7, we explain our work with the Department for Transport to make real time train running data feeds freely available. We continue to watch with interest as developers use these feeds to build products for both the passenger and rail enthusiast market. The early signs are that the data we have – used with other material made available by us elsewhere – is proving most useful in the second context, for an example see www.opentraintimes.com. However, we are keen to see how it can be used with data about other modes of transport in an integrating journey planning context. Even if this takes some time and more work on our part, and even longer for the benefits to become properly visible, we believe it will happen.

Q11 – Risks attached to transparency and any unintended consequences

36. Whilst as above there are undoubtedly risks in exposing data of questionable quality, we believe these can be mitigated by sensible decisions on delayed or non-disclosure. Potentially more problematic is the risk of publishing too much data without consideration of how it will be used. Both the Public Accounts Committee and the National Audit Office have identified this as one of the shortcomings of the approach in central government, and we believe this is a lesson from which our industry should learn, particularly since our ability to continue to make the case for transparency hinges on the data we publish being used.

37. The National Audit Office identified both a risk to privacy – through the disclosure of personal data – and an increased risk of fraud as a consequence of transparency of contract and payment details in its review of the implementation of the transparency agenda in central government.

Q12 – How should the risks and benefits of transparency be evaluated, what factors should be taken into account, including how should the achievement of ORR’s transparency objectives be measured.

38. It may not be possible to measure the risks and benefits of transparency in the detached way this question anticipates. But transparency has clear parallels with, for example, customer and public engagement which in Network Rail and – we imagine – in much of the rest of the industry is the subject of regular evaluation.

39. We also believe that ORR should consider to what extent its transparency objectives should be re-cast as outcomes dependent on what happens elsewhere – whether in Network Rail, the wider industry, or most importantly in the companies who develop and use products and services based on rail (and other) data. As things stand, it is difficult to imagine how it can consistently measure its progress outside of the number of datasets published and the number of web users who view or download them. While this will be valid for a small number of high value “corporate” datasets, for a far larger number it is surely how the data is used that matters more, and these measures are not adequate.

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