21. Affordability of the HLOSs

Key messages in this chapter

- We have reviewed the financial forecasts provided by DfT and Transport Scotland to support their HLOSs.
- We have combined our determination assumptions of Network Rail's revenue requirement with the costs and revenues that the governments have forecast for franchised train operators and the amount of public funding that is available in CP5.
- The assessment shows that in total the DfT has a small surplus against its funds available and Transport Scotland a small deficit. The extent of the deficit or surplus varies by year.
- Although the figure for Scotland is currently negative, at this stage we consider that the gap will be closed, partly because the exact funding levels for projects in CP5 have not yet been finalised. We also consider that the profile of Network Rail's expenditure and revenue in CP5 will change by the final determination, closing the DfT deficit years.

Introduction

21.1 This chapter sets out our assessment of whether the England & Wales and Scotland HLOSs can be delivered for the public funds (SoFAs) available.

21.2 The chapter has the following structure:

(a) an overview of our approach to determining affordability;

(b) a summary of DfT's financial forecast, on which it based its HLOS, and our analysis of this forecast;

(c) a summary of Transport Scotland's financial forecast, on which it based its HLOS, and our analysis of this forecast;

(d) a summary of our assessment of how much revenue Network Rail will need to deliver the HLOSs; and

(e) a summary of the results of our affordability assessment.

Approach

21.3 Our affordability calculation is a whole industry calculation; that is we must consider franchised train operators, freight and Network Rail. It is based on:

(a) the information on franchise support costs and revenues that DfT and Transport Scotland have provided to us;

(b) our analysis of those forecasts; and

(c) our calculation of Network Rail's SoFA revenue requirement.

21.4 We need to ensure consistency between the calculations carried out by the governments and ourselves. The franchised operators pay access charges to Network Rail and, in producing their franchise subsidy forecasts, DfT and Transport Scotland included estimates of these costs. We have adjusted for these franchise payments to Network Rail.

DfT's financial forecasts and our analysis

21.5 DfT provided us with commercially confidential data underpinning its financial forecasts, including:

(a) base (before changes expected as a result of the HLOS) revenues and costs for each of the franchises operators;

(b) a risk analysis including the forecast impact of revenue sharing arrangements; and

(c) forecast incremental costs, mainly assumptions on new rolling stock required and the associated lease costs.

21.6 We were also provided with underlying policy assumptions including the assumptions on regulated fares, i.e. the assumptions that have been made by both governments on any increases in regulated fares over CP5. Unregulated fares are assumed to increase in line with regulated fares for forecasting purposes.

21.7 DfT has excluded some capital programmes such as non-Network Rail parts of Crossrail and High Speed 2 from its SoFA because these are separate companies and so they are identified separately by DfT. DfT's SoFA also does not reflect any funding provided by the Welsh Government.

21.8 We reviewed DfT's analysis in terms of whether the assumptions made were reasonable.

21.9 As in PR08, we decided it was not sensible for us to produce our own passenger demand forecasts as this would just duplicate DfT's role. Instead, we checked the consistency of DfT's forecasts, their completeness and their reasonableness.

21.10 After we received Network Rail's SBP, it became apparent that DfT's calculation had underestimated the likely costs of depots and stabling and hence we assumed a further capital cost of £224m, with funding in CP5 based on only paying for a part of the capital costs within the control period (i.e. payments are spread over time).

21.11 We found DfT's assumptions on franchise revenues to be reasonable, with revenues forecast to rise by 3% per annum, below recent trends (over the last five years franchise revenue has grown by more than 50%).

21.12 Base costs were assumed to be stable, which again we found to be reasonable. When we assess Network Rail's revenue requirement, we make assumptions about how much the company can increase its efficiency by. Similarly, DfT considered efficiency improvements for franchise train operators, particularly in the light of the RVfM study.

21.13 We reviewed the efficiency assumptions and found them to be reasonable, based on examples of potential efficiency improvements that DfT provided. However, after the cancellation of the West Coast Main Line franchise competition in October 2012, we went back to DfT to discuss whether the initial assumptions were still reasonable, given the delays to the franchise letting programme and the increased emphasis on negotiating direct awards with existing franchises. DfT provided us with further evidence to support its numbers.

21.14 As HLOS capacity enhancements had not been fully defined at the time of the HLOS, DfT assumed that any additional revenue would broadly cover the operating costs of the additional rolling stock required, which is reasonable.

Transport Scotland's financial forecasts and our analysis

21.15 The financial forecasts are simpler in Scotland as there are only two franchises – the ScotRail franchise and the franchise for Caledonian Sleeper services. We carried out a similar assessment for Scotland as we did for England & Wales and concluded that the forecasts were reasonable.

Network Rail's revenue requirement

21.16 To carry out the affordability calculation, we need to include Network Rail's revenue requirement, as forecast in earlier chapters. For our assessment we have used Network Rail's SoFA revenue requirement[395]. This is the gross revenue requirement that we determine will be received from all funding sources less our assumptions for the income that Network Rail will receive from sources other than franchised passenger train operating companies, which offsets the gross revenue requirement. This 'SoFA other single till income' is principally from property rental and sales, freight charges, Crossrail charges and facility charges.

21.17 It is the SoFA revenue requirement – the level of Network Rail's revenue requirement that is funded by access charges (track and station) from franchised passenger operators, or grant paid by government in lieu of track access charges – that is relevant for the level of public financial support for the railways, as set out in the SoFAs.

21.18 Tables 21.1 and 21.2 summarise the revenue requirement calculations in England & Wales and Scotland to deliver the HLOSs. CP4 equivalents have not been included as this would not be a meaningful comparison because the HLOSs published in PR08 were different to those in PR13.

Table 21.1: Our assessment of Network Rail's CP5 SoFA revenue requirement to deliver the HLOS – England & Wales

£m (2012-13 prices)	2014-15	2015-16	2016-17	2017-18	2018-19	Total
Gross revenue requirement	**5,550**	**5,633**	**5,691**	**5,770**	**5,887**	**28,530**
SoFA other single till income	(424)	(488)	(539)	(591)	(639)	(2,682)
SoFA revenue requirement	**5,125**	**5,144**	**5,151**	**5,179**	**5,247**	**25,847**

[395] This definition is consistent with the SoFA revenue requirement presented in Network Rail's IIPs, our May 2012 advice to ministers and Network Rail's strategic business plans.

Table 21.2: Our assessment of Network Rail's CP5 SoFA revenue requirement to deliver the HLOS – Scotland

£m (2012-13 prices)	2014-15	2015-16	2016-17	2017-18	2018-19	Total
Gross revenue requirement	**619**	**644**	**658**	**655**	**656**	**3,231**
SoFA other single till income	(26)	(29)	(31)	(34)	(37)	(156)
SoFA revenue requirement	**593**	**615**	**627**	**621**	**619**	**3,075**

Results of our affordability analysis

21.19 Table 21.3 summarises our calculations for England & Wales. The steps in the process are:

(a) starting from the SoFA (which is in nominal terms), we converted the SoFA into real prices (2012-13 prices);

(b) we deducted the franchise support payment from the total funds available;

(c) we added back the payments made by franchise operators to Network Rail as assumed by DfT; and

(d) the resulting total was then compared to our calculation of Network Rail's SoFA revenue requirement to calculate a 'surplus' or 'deficit' of funds.

Table 21.3: Results of the affordability calculation for CP5 – England & Wales[396]

£m (2012-13 prices)	2014-15	2015-16	2016-17	2017-18	2018-19	Total
SoFA	**2,988**	**3,110**	**3,004**	**3,000**	**2,823**	**14,924**
Less franchise support payment	(257)	(90)	(198)	(154)	(263)	(961)
Add back franchise payments to Network Rail (as assumed in the SoFA)	1,969	2,000	1,981	2,017	2,017	9,984
Funds available for Network Rail	**5,213**	**5,201**	**5,183**	**5,170**	**5,102**	**25,869**
Less Network Rail revenue requirement to deliver the HLOS	(5,125)	(5,144)	(5,151)	(5,179)	(5,247)	(25,847)
Surplus/ (deficit)	**88**	**56**	**32**	**(9)**	**(145)**	**22**

Note: Bracketed terms are negative.

21.20 Table 21.4 summarises our calculations for Scotland. The steps in the process are:

(a) starting from the SoFA (which is in nominal terms), we converted the SoFA into real prices (2012-13 prices);

(b) as Transport Scotland's published SoFA reflected only the funds available for CP5 infrastructure spending (and also incorporated payments made by franchise operators to Network Rail), we did not need to adjust the SoFA to determine the total funds available; and

(c) the resulting total was then compared to our calculation of Network Rail's SoFA revenue requirement to calculate a 'surplus' or 'deficit' of funds.

[396] The gross revenue requirement in this table is higher than in chapter 14 as this reflects additional costs of depots and stabling. These costs were not included in DfT's SoFA. As Network Rail might not be the delivery organisation, and RAB funding might not be the chosen mechanism in all cases, we have not included these additional costs in Network Rail's gross revenue requirement in chapter 14.

Table 21.4: Results of the affordability calculation for CP5 – Scotland

£m (2012-13 prices)	2014-15	2015-16	2016-17	2017-18	2018-19	Total
SoFA	**605**	**612**	**596**	**587**	**581**	**2,981**
Funds available for Network Rail	**605**	**612**	**596**	**587**	**581**	**2,981**
Less Network Rail revenue requirement to deliver the HLOS	(593)	(615)	(627)	(621)	(619)	(3,075)
Surplus/ (deficit)	**12**	**(3)**	**(31)**	**(34)**	**(37)**	**(94)**

21.21 Taking into account the assumptions underlying our analysis, the total cost of the Scottish Ministers' specification is slightly above the funds available, while the Secretary of State's is slightly below. The England & Wales numbers show a mix of positive and negative, while the numbers for Scotland have four negative years. These numbers could change by the final determination and we must notify the relevant government if at any time we decide the specification is not affordable.

21.22 Although the figure for Scotland is currently negative, at this stage we consider that the gap will be closed, partly because the exact funding levels for projects in CP5 have not yet been finalised and other assumptions could change. We also expect some reprofiling of expenditure and revenue for the final determination which we expect will remove the DfT negative years.

21.23 If it appears that there will be a surplus at the time of the final determination we would agree with the relevant government how this should be treated.

22. Implementation of our determination

Key messages in this chapter

- The implementation of PR13 will require the amendment of track and station access agreements and Network Rail's network licence. We will start the statutory process to do this on 20 December 2013.
- We will consult on the proposed amendments in July 2013. We will also seek views from Network Rail and train operators on what bespoke provisions in their track access agreements (if any) should roll-forward to CP5.
- In the event of a delay to the statutory implementation process, we have a contingency plan to ensure that the main access charges that fund the running of the railway are not disrupted.

Introduction

22.1 This chapter sets out how we will implement our PR13 determination. It gives an overview of:

(a) the background to the statutory implementation process and the access agreements that are within the scope of PR13;

(b) the process for making changes to access agreements and the network licence to give effect to this determination; and

(c) contingency arrangements if there is a delay to implementation.

The implementation process – background

22.2 As an access charges review, PR13 ultimately involves the review and amendment of the amounts payable under, and associated provisions within, access agreements between Network Rail and its customers ('beneficiaries'). This includes the charges levied for the use of the track or stations, and the possessions and performance compensation regimes and efficiency benefit sharing mechanisms. Our overall decisions on PR13 will therefore need to be implemented through changes to track and station access agreements. We will also need to amend Network Rail's network licence (through which we hold it to account) so that it reflects key policy decisions.

22.3 The process for implementing access charges reviews is set out in Schedule 4A to the Railways Act 1993, which requires us to issue a series of notices:

(a) a review initiation notice;

(b) review notices;

(c) notices of agreement; and

(d) review implementation notices.

22.4 A review initiation notice formally sets out our intention to carry out an access charges review. On 15 March 2012, we issued a review initiation notice relating to both track and station access agreements[397].

22.5 Once we have reached our conclusions (i.e. our final determination) in an access charges review, we then issue review notices which begin the implementation phase of the access charges review. These must:

(a) state our conclusions and the reasons why we have reached those conclusions. We will do this by incorporating our published final determination document into the notice;

(b) specify the changes which we propose to make to any access agreements for or in connection with giving effect to our final determination;

(c) state the date on which we propose that each of those changes should come into operation; and

(d) specify a period of not less than six weeks from the date of issue of the review notices in which Network Rail may object to any of the proposed changes.

22.6 We will send a copy of the review notices containing revised provisions to Network Rail, each affected beneficiary, the Scottish Ministers, the Secretary of State and HM Treasury. We intend to issue the review notices on 20 December 2013. At the same time, we will approve the price lists produced by Network Rail that set out the charges to be paid by train operators that are incorporated into access contracts. We will publish the review notices on our website after making any appropriate redactions.

[397] Our review initiation notice issued on 15 March 2012 is available at: http://www.rail-reg.gov.uk/pr13/PDF/review-initiation-notice.pdf.

22.7 Consistent with previous practice, our review notices will also include a provision providing that if we approve or direct amendments to an access agreement after we have served the review notice but before it comes into effect, then those later amendments will come into effect subject to the changes we propose in the review. If there is any conflict between the changes we propose in the review notice and the changes we have approved or directed subsequently, the latter will take precedence.

22.8 Any access contracts entered into after the date we issue our review notices cannot be included within the scope of the notice. Nonetheless, they still need to be subject to PR13. We will ensure there are provisions in those contracts to ensure that relevant PR13 amendments can be made to them once CP5 begins. We will also need to make similar arrangements for those contracts that may be entered into shortly before the review notice is issued.

22.9 If Network Rail objects to any review notice, we may issue a new review notice or make a reference to the Competition Commission. Should we issue a new review notice, then Network Rail would have a further period of not less than six weeks to make any objections to the new notice.

22.10 If Network Rail does not object to the review notices, we must serve a 'notice of agreement' on each beneficiary to an access agreement. The beneficiaries then have a period of 28 days to give notice to terminate their access agreements, should they wish to do so.

22.11 Following the expiry of this 28 day period, we will publish the review implementation notice, stating that our determination is to be implemented as proposed in the review notice. Through this process, the changes are implemented directly into the track and station access agreements specified in the review notice.

22.12 We intend to implement our PR13 determination on 1 April 2014. Our timetable is shown in Table 22.1 below.

Table 22.1: Key dates for the implementation process

Date	Milestone
20 December 2013	Issue review notices
7 February 2014	Deadline for Network Rail to object to the review notice
After 7 February 2014	If Network Rail does not object to our review notice, issue notice of agreement to beneficiaries of access contracts
March 2014	Issue review implementation notice
31 March 2014	Delivery plan published by Network Rail
1 April 2014	Implementation of PR13 determination

Changes to access agreements and the network licence

Consultation on proposed contractual changes to access agreements

22.13 PR13 will require changes to the various aspects of passenger, freight, freight customer and charter track access agreements (principally the access charges in Schedule 7 and financial compensation regimes in Schedules 4 and 8 where these exist, and will include operator specific information such as payment rates and benchmarks in Schedule 8). This will include new price lists incorporated into each track access agreement. It will also require changes to the long term charge in each station access agreement that falls within the scope of PR13.

22.14 On 12 July 2013, we will consult Network Rail and its access beneficiaries on how we propose to implement the decisions set out in this draft determination through changes to access contracts. We plan to hold a workshop with charter operators in late June/early July 2013 to discuss incorporating a Schedule 8 benchmark and capacity charge into their track access agreements. In light of this, we will consult later in July 2013 on any contractual changes we might be proposing in this regard.

22.15 In April and May 2013, Network Rail published initial drafts of its CP5 price lists and invited comments on them for accuracy[398]. By 12 July 2013, Network Rail will publish updated drafts of these price lists reflecting our draft determination. Train operators

[398] *Structure of charges: publication of draft CP5 price lists*, Network Rail, May 2013, available at http://www.networkrail.co.uk/PublicationofdraftCP5pricelists.pdf.

should take this opportunity to review and comment to Network Rail on these as the final versions we will approve in December 2013 cannot be changed.

22.16 Whilst we are not planning any associated changes to the Network Code as part of PR13, we will be making changes to the multilateral rules governing the use of on-train metering of traction electricity (the 'EC4T Metering Rules'). As set out in chapter 16, this will include moving the volume and cost wash-up provisions (which are multilateral processes) from the bilateral track access contracts to the multilateral EC4T Metering Rules. As part of this, the scope of the EC4T Metering Rules will be broadened to apply to all train operators (becoming the 'Traction Electricity Rules'). This will also enable the industry to take forward and implement during CP5 other improvements to provisions relating to traction electricity.

22.17 We will consult separately on the changes to EC4T Metering Rules/Traction Electricity Rules in July 2013.

Consultation on bespoke provisions within track access agreements

22.18 Most track access agreements are broadly consistent with our model contracts, but many contain bespoke provisions. For example, facility charges for investments paid for by the train operator, or additional charges to recover the cost of an operator running services beyond the normal opening hours of a route. Where these bespoke provisions need to be retained in CP5, we will need to reflect this in the changes we make to access agreements through our review notice – adapting the CP5 provisions as appropriate.

22.19 In preparation for this, we have been reviewing existing track access agreements (based on the consolidated versions of the contracts that Network Rail is required to produce) to understand what bespoke provisions there are in each contract and whether these should be retained.

22.20 Alongside the consultation on the proposed CP5 provisions, we will also provide Network Rail and each beneficiary with a list of the bespoke provisions (if any) that we have identified in their contracts along with our view on whether these should be retained or not. It will then be for them to confirm whether we have correctly identified the bespoke elements and advise if they disagree with us on what, if anything, should be rolled-forward. For example, we would not expect additional permitted charges relating to longer route opening hours to be carried forward if these longer opening hours will be funded as part of the baseline capability of the network, which will be set at the level in place on 1 April 2014.

22.21 This consultation will end on 4 September 2013, aligned with the consultation on this draft determination. We will then review comments received on the proposed CP5 provisions ahead of finalising them once we have published our final determination. We will then begin to prepare the review notices for each train operator, taking into account the views received on what existing provisions should be retained for CP5.

Station access agreements

22.22 Amendments to station access agreements will be relatively straightforward compared to those for track. We will be amending the station long term charges for all regulated stations, including proposed changes to the indexation methodology for the long term charge.

22.23 We will also need to reflect that in CP5, Network Rail will recover Stations Information and Security Systems (SISS) costs from the station long term charge rather than through the fixed track access charge (for franchised stations) and through qualifying expenditure at Network Rail managed stations. Our decision on this change is discussed in chapter 16.

22.24 For franchised stations, the change to SISS can be addressed through the recalculation of the charges on the price lists. However, for the 17 managed stations, the station access conditions will need to be amended to make clear that qualifying expenditure no longer includes SISS. This will require a relatively straightforward amendment which we will include in our review notice in December 2013. We will consult on the proposed drafting changes in our consultation in July 2013.

Changes to Network Rail's network licence

22.25 As set out in chapter 12, we plan to update and amend licence condition 3 of Network Rail's network licence to:

(a) include separate restrictions on the level of Network Rail's financial indebtedness in England & Wales and Scotland;

(b) reflect the maximum levels of financial indebtedness; and

(c) make the year 5 CP5 level roll forward into CP6 until CP6's levels are set.

We also intend to amend licence condition 4 so that it more clearly reflects our policy on when Network Rail may pay a rebate to the governments, as set out above in chapter 12. Both these sets of changes are directly related to our PR13 determination.

22.26 We also propose to make improvements to other Network Rail network licence conditions. These will be either relatively minor updates or clarifications and refinements which we think are necessary to make the licence fit for purpose for CP5.

22.27 We will consult on the proposed drafting of changes to the network licence alongside the consultation on the contractual provisions on 12 July 2013.

Process for amending the network licence

22.28 There are two processes that we can use to implement licence changes, as follows:

(a) **schedule 4A of the Act** provides for us to amend any ‘linked licence’ (i.e. linked to the access agreements in respect of which we are carrying out PR13) through a review notice.

We plan to use this process for the amendments to condition 3 and 4 which are directly related to PR13. We will do this through the review notices we expect to issue on 20 December 2013; and

(b) **section 12 of the Act** sets out the process for amending licences with the consent of the licence holder and requires a minimum 28 day statutory consultation.

We expect to use this process for the other changes we propose to make to the licence to make it fit for purpose for CP5. After we have taken into account stakeholders’ responses to the July 2013 consultation, later in 2013 we will conduct a 28 day statutory consultation on the modifications we intend to implement. Any such changes will take effect on or before 1 April 2014.

Contingency planning for a delay to the statutory implementation process

Background

22.29 There is a risk that the implementation process for PR13 could be delayed. As set out above, Network Rail has the right to object to our review notice. If it does so, we can issue new review notices and restart the implementation process, or we can refer the matter to the Competition Commission. In either scenario, the impact on timescales will mean that PR13 cannot be implemented in time for 1 April 2014. The process could also be delayed by other events, such as a judicial review[399].

22.30 The Act does not specify what should happen in this scenario. In practice, it would mean a significant gap in Network Rail's funding because certain key charges (in particular the fixed charge paid by franchised operators) would not automatically roll-forward.

22.31 There are two broad options for addressing this: introduce a provision to either (1) roll-forward CP4 charges or (2) implement our PR13 determination (pending the ultimate resolution of the cause of the delay). In either case, depending on how the delay to implementation is resolved, there may be a need to issue new review notices with new charges and terms.

22.32 We do not think that all operators rolling forward their CP4 charges would be viable because:

(a) many of the charges in CP4 were profiled, and there is no reason to suppose that the charges payable for the final year of CP4 relate logically to the appropriate revenue which Network Rail should receive from 1 April 2014 onwards; and

(b) the charges set for CP4 relate to the delivery of outputs specified in the PR08 final determination. Network Rail should be committed to the new outputs for CP5.

Our proposal

22.33 On 17 April 2013, we wrote to Network Rail, train operators and other relevant parties proposing a contingency plan based on implementing the amendments specified in our PR13 review notices on 1 April 2014, notwithstanding a delay to the process for any reason[400]. This would then provide for Network Rail to start the delivery of regulated outputs as per our determination, with the revenue stream set by the determination.

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[399] For the remainder of this chapter, we use a Network Rail objection as the example, but a delay could be due to other reasons

[400] *Consultation on contingency planning for PR13 implementation*, April 2013, available at: http://www.rail-reg.gov.uk/upload/pdf/pr13-contingency-planning.pdf.

22.34 Under this arrangement, if ultimately the Competition Commission disagreed with our determination, we would have to take its findings into account in the changes we propose to be made to access agreements.

22.35 In our letter, we suggested operators of regular scheduled passenger services (franchised and open access operators) and Network Rail agree to amend their contracts to include a provision that would provide for this arrangement. This was on the basis that their agreements contain provisions that would time out at the end of CP4 if PR13 implementation were delayed.

22.36 We proposed that freight and charter passenger operators did not need to enter into it as the provisions in their contracts would not ‘time out’ at the end of CP4, and would be uplifted by inflation in the event of a delay. However, we asked freight and charter operators whether they would want to make the amendment in any case.

22.37 We discussed this arrangement with the Competition Commission and it raised no objections to it. It also noted that the plan would not in any way undermine Network Rail’s statutory right to object to our review notice, nor would it prejudice the ability of ORR to take action following an objection such as issuing a new review notice or making a reference to the Competition Commission.

22.38 In our letter, we noted that where PR13 is finally implemented following a delay, Network Rail and each train operator may need to make adjustments to ensure that they would both be left in the financial position that they would have been in had PR13 implementation not been delayed and had taken effect from 1 April 2014. This would be necessary if the charges and other payments ultimately implemented for CP5 were different to those that had been paid from 1 April 2014. This would apply to all train operators, including:

(a) those that had entered into our proposed contingency arrangement (and where the charges finally implemented for CP5 were different to those paid from 1 April 2014, e.g. because we had had to issue a new review notice); and

(b) those that did not enter into our proposed contingency arrangement and had paid uplifted CP4 rates from 1 April 2014 until PR13 was finally implemented.

Responses and next steps

22.39 We received four responses to our consultation letter: Chiltern Railways, Freightliner Group; DB Schenker (including Rail Express Systems) and Network Rail[401].

22.40 Chiltern was content with our proposed approach subject to assurances from DfT that the franchise agreement provisions for ‘no net loss, no net gain' would apply. DfT has confirmed that it supports our proposed contingency plan. It has said it will implement the CP5 charges for each TOC as required under its franchise agreement, should the contingency arrangement be triggered in the event of a delay to PR13 implementation. Similarly, Transport Scotland has confirmed it will apply schedule 9 of the ScotRail franchise agreement under these circumstances as well.

22.41 Freightliner Group was content to make the amendment, provided that all other freight operators did the same. DB Schenker did not wish to enter into the amendment, and instead wanted to leave the provisions in its contracts to roll-forward if there was a delay.

22.42 Network Rail was content with the proposed approach, but noted if implementation was delayed it would be unlikely that it would have developed a plan by the end of CP4 to deliver the required outputs for funding provided in ORR’s final determination. It said that whilst it would continue to drive down costs, it would be uncertain whether the cost reductions assumed by ORR and the required outputs could be achieved. On this basis, it said it would need to agree with ORR the most appropriate basis for developing its CP5 delivery plan. In particular, it would need to agree the approach for its investment programme so that the impact of any delay could be minimised, whilst recognising that the delay could result in subsequent changes to the agreed programme.

22.43 The responses were consistent with our proposed approach. Shortly after publication of this draft determination, we will write to Network Rail and franchised and open access passenger operators asking them to enter into the amendment to implement the contingency arrangement.

22.44 We will not ask freight or charter operators to do so on the basis that there was insufficient support for this and that their contracts will not ‘time-out’ in the event of a

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[401] These are available on our website at http://www.rail-reg.gov.uk/pr13/consultations/contingency-planning.php.

delay to statutory implementation of PR13. Ultimately, they will still pay the CP5 charges: once PR13 is finally implemented, any difference between the uplifted CP4 rates paid during the interim period and the final CP5 rates would need to be reconciled.

23. Monitoring, enforcement and reporting

Key messages in this chapter

- We will monitor, enforce where necessary and report on Network Rail's performance in CP5. This will give stakeholders assurance it is meeting its obligations and delivering what it has been funded to do.
- Our monitoring will be risk based, proportionate and forward looking. We will monitor a wide range of outputs, indicators, enablers and other aspects of delivery. We will focus much more on route level information than we have done before, for transparency and benchmarking.
- We will enforce the delivery of outputs where we need to. Our approach to enforcement will continue to reflect the principles of better regulation and our enforcement policies. As well as enforcing compliance with Network Rail's licence, we can enforce health and safety law.
- Network Rail must agree operational performance targets with individual passenger TOCs. We will treat these as outputs alongside the national performance outputs. All franchised England & Wales TOCs should reach 90% punctuality by the end of CP5 (and overall punctuality should be 92.5% or more). There are established industry processes by which Network Rail, TOCs and FOCs work together to deliver good performance, but we can intervene if Network Rail falls short.
- We will use our PR13 determination as the baseline for measuring Network Rail's financial performance, and will focus on total financial performance rather than just some elements of expenditure. If Network Rail cannot show us that its reporting is robust it will not be able to benefit from any claimed savings in renewal costs.
- We will continue to publish independent, objective reports about Network Rail's delivery in CP5, including our Network Rail Monitor and our annual letter to Network Rail's remuneration committee. We will publish more information at the route level. We will establish a whole industry scorecard and will develop a new journey time indicator for connectivity. We will discuss possible measures of accessibility with the TOCs and will need to think further on how to make the scorecard useful at the local level.

Introduction

23.1 One of our key responsibilities is to provide assurance to Network Rail's customers and funders that Network Rail is meeting its obligations and delivering what it has been funded to do.

23.2 This involves monitoring, enforcing and reporting on Network Rail's compliance with both health and safety law and with its licence obligations. This chapter sets out our approach to these tasks in PR13. We have considered four particular aspects:

(a) how we will monitor Network Rail's delivery of economic and health and safety obligations;

(b) how we will enforce delivery, especially of operational performance outputs where we need to update our approach;

(c) how we can improve the monitoring of Network Rail's financial performance; and

(d) what we should report, particularly about the whole industry context.

Monitoring in CP5

23.3 In CP5 our monitoring across all areas will continue to be risk-based, proportionate, targeted and forward looking. Where possible we will anticipate and head off issues, ensuring Network Rail is managing risks effectively before they become problems.

23.4 We will monitor whether Network Rail is delivering the **outputs** we set. We will consider all the outputs detailed in chapter 3, including new ones for CP5 such as those around Network Rail's asset management and the reduction of risk at level crossings.

23.5 We will continue to monitor Network Rail's compliance with its obligations under health and safety law.

23.6 We will also monitor:

(a) **indicators** to better understand the reasons for trends in outputs and the risks faced. Many of these are highlighted in chapter 3. For example, we will compare the volumes and costs of work done maintaining and renewing the network against Network Rail's plans. This will be a particular challenge in the case of civil engineering works where we need Network Rail to first develop much better plans for the later years of CP5. Similarly, we will monitor Network Rail's project design and development milestones as indicators. However, Network Rail has a great deal to do to develop these quickly for the early GRIP projects where a single option has not yet been identified;

(b) where we have established **ring-fenced funds**, whether Network Rail is delivering schemes efficiently and on time and that planned benefits are realised. Schemes may have economic, environmental, social and safety benefits;

(c) if Network Rail is financially sustainable and operating within the financial boundaries set by our determination;

(d) progress with the **enablers** we have identified that underpin longer term improvement. These include customer service maturity and continuous improvement of Network Rail's management of safety; and

(e) the whole industry context in which Network Rail works.

23.7 In CP5 we will be monitoring much more route level information than in CP4. Clearly it is for Network Rail to manage its routes and other business units but we will expect the company to provide disaggregated information wherever appropriate. This will be valuable in helping us understand how Network Rail is performing as a business, the variations in performance, efficiency and safety we see across the network and for benchmarking. It will help us make industry delivery more transparent, and should facilitate greater local involvement in the funding and specification of the railway.

23.8 We will seek to minimise the regulatory burden on Network Rail by using the information it already uses for its own purposes wherever possible. Network Rail is keen to work us with us to facilitate our using its own assurance processes where this will be effective and efficient.

23.9 Longer term, we would like to see the need for ORR to monitor delivery the way we do now to diminish. This might come about as Network Rail becomes more commercial in its behaviour and relationships with greater exposure to what its customers want. In time our role could then shift more towards supporting and encouraging Network Rail and its stakeholders as they work together to deliver. Network Rail's performance in CP4 shows we have not yet reached that position. We will review our approach towards the end of CP5. Until then we will look for opportunities to step back from particular areas of monitoring where delivery and/or the costs and risks justify it.

Enforcement in CP5

23.10 Our approach to enforcement in CP5 will continue to reflect the principles of better regulation i.e. to be proportionate, transparent, consistent, targeted and accountable. We will act in line with our published enforcement policies, which we consider remain fit for purpose in CP5.

23.11 If Network Rail is failing, or is likely to fail, to meet an output we will consider whether to take licence enforcement action. We can do this because we consider outputs to be the reasonable requirements of Network Rail's customers and funders, and its licence requires it to do everything reasonably practicable to meet such requirements.

23.12 If Network Rail is not complying with its health and safety obligations we will consider whether to take enforcement action under health and safety legislation. This may include prosecution and/or the serving of enforcement notices.

Enforcing TOC operational performance

23.13 In the past we have made a separate policy statement on enforcing operational performance at the individual TOC level, most recently in June 2010. Our approach from now until the end of CP5 is set out in this section.

23.14 Throughout CP5 we expect Network Rail to engage with passenger TOCs to develop and agree a Joint Performance Improvement Plan (JPIP) (or alternatively a local output commitment or LOC) to be in place by 1 April each year. Each JPIP should cover the next two years. Each JPIP should include a PPM commitment, and also a CaSL commitment for those TOCs franchised by the Department for Transport. We will treat only these commitments for the first year of each JPIP as regulatory outputs.

23.15 JPIPs should also include performance indicators we will monitor such as delay minutes and any other measures Network Rail and TOCs think appropriate.

23.16 In the event Network Rail cannot agree a JPIP with a TOC we would expect to set an interim requirement taking the second year of the last agreed JPIP as our starting point (for the first year of CP5 this means the second year of the JPIPs agreed this summer). For franchised TOCs we would also work with the relevant franchising authority to ensure the JPIP process worked smoothly and a JPIP was agreed as soon as possible.

23.17 For franchised TOCs, JPIPs should be consistent with the franchise contract so far as possible. Network Rail will, as now, provide performance projections to inform potential franchise bidders and JPIPs should be updated in-year if needed to reflect franchise change.

23.18 Network Rail will need to explain each year how delivery of the individual JPIPs relates to delivery of the required national performance. We expect it to have robust governance arrangements in place so that whenever the JPIPs taken together do not give us confidence the national requirements will be met, it develops clear and convincing plans to bridge any gap, which it must then deliver.

23.19 There are established industry processes through which Network Rail, TOCs and FOCs work together to deliver good train performance. While we can hold Network Rail to account, funders can hold their operators to account and so we will work with the funders to ensure these performance management processes work well. We may step in if called on by an operator, a funder, Passenger Focus or London TravelWatch. We will not, however, wait for a complaint if our own monitoring suggests action is needed.

23.20 Achievement of the national annual output targets will almost inevitably mean that some TOCs will exceed their individual JPIP targets while others underperform. This is particularly likely where the sum of the JPIPs is very close to the national target. This means there is no justification for us to intervene automatically if a JPIP output were not being achieved. However, this would mean that Network Rail could achieve its national outputs while some TOCs experienced significantly worse performance. Therefore, we think we should specify a floor level below which we will intervene. Above the floor, we will not normally intervene unless some other output is at risk (for example, the minimum PPM in year 5 output in paragraph 23.23).

23.21 Network Rail suggested a floor for England & Wales PPM of 90% with no regulatory intervention as long as performance remained above this level. We have not accepted this proposal as there are big differences between individual TOC performance and the nature of their services, and Network Rail is unlikely to agree the same JPIP targets with every TOC.

23.22 Instead we propose to set a floor 2 percentage points below PPM (MAA) commitments made in each JPIP. We think this is an appropriate floor given the uncertainty in the figures that make up PPM, the greater variability in PPM at individual TOC level and performance in CP4. Similarly where a CaSL commitment is made we propose to set a cap at 0.2 percentage points worse than the JPIP target; below this level we will not normally intervene unless some other output is at risk.

23.23 We consider no England & Wales franchised TOC should exit the control period with a PPM (MAA) of less than 90%. We will treat this requirement as an output and require Network Rail to agree PPM targets in the relevant JPIPs of at least this level for the last year of CP5. This should not significantly impact the CP5 national output as the poorest performing TOCs run relatively few services and therefore have a relatively small impact on national PPM.

23.24 In summary, we will intervene when:

(a) Network Rail and a TOC cannot agree a JPIP;

(b) Network Rail's plans or actions to deliver at least 90% PPM for every England & Wales franchised passenger TOC in the last year of CP5 are inadequate;

(c) Network Rail's plans or actions to deliver the national performance outputs are inadequate (including where Network Rail needs to bridge a gap between the sum of the JPIPs and the national outputs); and/or when

(d) performance for an individual TOC is worse than the relevant floor/cap levels.

23.25 Where we intervene, we will follow a staged approach of review, investigation and escalation which may ultimately lead to formal enforcement action. We may require updated or new recovery plans, the formation of a recovery board or some other form of assurance from Network Rail.

23.26 As now, in deciding whether and how to intervene we will focus on systemic and/or serious issues. We will work with the established industry processes where possible, taking account of how the commitments made dealt with the greater uncertainty associated with forecasts at the route or TOC level.

23.27 We will also consider the impact of poor performance on passengers and what was or will be done for them. In particular, we will look at the numbers, causes and effect of so-called 'bad days' on passengers and assess Network Rail's response; these are days when significant parts of the network are severely disrupted, for example by major infrastructure failure or extreme weather. While some bad days are probably unavoidable, Network Rail can reduce their likelihood and impact through its planning and service recovery. The CaSL measure captures the key elements of such days – trains cancelled or part cancelled and those delayed by 30 minutes or more.

Financial monitoring

23.28 We report on Network Rail's efficiency and financial performance in our annual efficiency and finance assessment publication[402] and in our Q4 Network Rail Monitor[403]. We also require Network Rail to report on financial issues in its regulatory accounts. This is because it is an important part of our role in holding Network Rail to account to be able to confirm how it is performing financially.

23.29 We have used several measures of efficiency and financial performance in CP4:

(a) a comparison to the PR08 determination;

(b) real economic efficiency measure (REEM);

(c) efficiency benefit sharing mechanism; and

(d) financial value added (FVA).

23.30 The differences in the way these measures are calculated has resulted in complexity and confusion in communicating Network Rail's financial performance in CP4. Given these and other problems, we are considering changing our approach to assessing financial performance in CP5. Our proposals are explained below.

23.31 The issues we have considered are:

(a) the objectives of our financial monitoring;

(b) the definition of outperformance and underperformance;

(c) the CP5 baseline;

(d) whether we should focus on Network Rail's total financial performance or a subset such as support, operations, maintenance and renewals costs;

(e) how we should treat financing costs and input price changes;

(f) how we should treat renewals performance;

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[402] This may be accessed at http://www.rail-reg.gov.uk/upload/pdf/nr_annual_asessment_2011-12.pdf.

[403] This may be accessed at http://www.rail-reg.gov.uk/upload/pdf/network_rail_monitor_1112q4.pdf.

(g) consistency with our RAB roll forward policy;

(h) the effect on financial performance of Network Rail not delivering outputs;

(i) how we should treat material one-offs (for example, if a machine had been assumed to be leased but Network Rail decided to buy it or if there is a change in law such as to national insurance rates); and

(j) how should we present our assessment of financial performance.

Financial monitoring objectives

23.32 Improving efficiency is not an output specified in our PR13 determination. Nevertheless, we make assumptions about what it is reasonable for the company to achieve and it is important that Network Rail is incentivised to financially outperform and to accurately report its financial performance. This is because:

(a) reducing costs, in a safe and sustainable way, is essential if the railway is to provide improved value for money for customers and funders;

(b) in the absence of shareholder pressure, reputational incentives such as our assessments of Network Rail's financial performance are important;

(c) our assessment of Network Rail's financial performance underpins the route-level efficiency benefit sharing mechanism (REBS);

(d) it has links to Network Rail's calculation of management bonuses; and

(e) it reveals important information to inform future periodic reviews.

Definition of financial outperformance and underperformance

23.33 In our 2006 policy statement[404] we defined:

(a) financial outperformance as "any underspend achieved while delivering the output targets specified in the access charges review and not compromising the long-term asset condition and serviceability of the network". The burden of proof is on Network Rail to show that an underspend it claims as outperformance meets the tests below; and

[404] *Monitoring and treatment of Network Rail's underspend and efficiency*, January 2006, available at: http://www.rail-reg.gov.uk/upload/pdf/273.pdf.

(b) financial underperformance as “any underspend while failing to achieve required output targets and/or compromising long-term asset condition”.

23.34 In order to assess whether underspend is outperformance or underperformance we:

(a) identify and quantify the causes of any underspend;

(b) assess whether Network Rail has delivered its required outputs (‘robustness’ test); and

(c) assess whether any reductions in the scope of work (i.e. reductions in volume) are likely to impact on the long-term asset condition and serviceability of the network (‘sustainability’ test).

CP5 baseline

23.35 It is more transparent to use just one baseline for assessing Network Rail’s financial performance in CP5; comparing Network Rail’s financial performance to both our determination and Network Rail’s delivery plan in CP4 has been overly complicated and has worsened transparency.

23.36 For CP5 we propose our financial monitoring should compare Network Rail’s financial performance against our PR13 income and expenditure assumptions. This is because:

(a) it is more transparent;

(b) it better reflects the regulatory settlement that Network Rail is incentivised to deliver;

(c) it better supports efficiency sharing mechanisms which are underpinned by the financial assumptions in our determination; and

(d) reporting against our determination will restrict Network Rail’s ability to potentially move the goal posts through frequent large-scale changes to its delivery plans.

23.37 Given the lack of a clear causal link between inputs and outputs, judgement needs to be applied in our assessment of financial performance. However, the more detailed the cost and volume baseline data that we can base our determination on, the more accurate our reporting will be. Given that the assumptions underpinning our determination will probably be less detailed than Network Rail’s own business plans, we will need to be transparent to ensure that Network Rail understands the basis of our determination.

23.38 This problem would not be solved by using Network Rail's business plans as the baseline. The lack of detailed unit cost and volume baseline data in Network Rail's plans has been a problem in CP4 and we note that its PR13 SBP maintenance assumptions were not based on volume and unit cost information[405].

23.39 The baselines included for early GRIP enhancements projects will be determined at the end of 2014-15 following our review of the costs of these projects.

Network Rail's total financial performance

23.40 Our assessment of financial performance in CP4 has mainly focused on Network Rail's operating, maintenance and renewals (OM&R) expenditure. However, focusing on OM&R can lead to perverse incentives. For example, an information management scheme that increases Network Rail's income and is efficient would reduce our assessment of Network Rail's efficiency as our assessment would only take into account the increase in cost, not the reason for the increase in cost, and not the increase in income.

23.41 Therefore we are proposing to include all income and expenditure categories that we have assumed are controllable by Network Rail in our determination in the measurement of total financial performance. This would address such perverse incentives, better incentivise Network Rail to improve its efficiencies in areas other than OM&R and reduce confusion amongst stakeholders[406]. For the final determination we will need to decide how our revised approach to issues such as civils, early GRIP enhancements and investment framework/spend to save projects should be reflected in our approach to financial performance. We will discuss this further with Network Rail and other stakeholders in the summer.

23.42 As summarised in the diagram below we think it will help in presenting our assessment of Network Rail's financial performance to structure it as follows:

(a) first, we will identify all variances between Network Rail's total actual income and expenditure compared to our determination. This provides a simple analysis of income and expenditure and we do not distinguish between a deferral of work and a cost saving;

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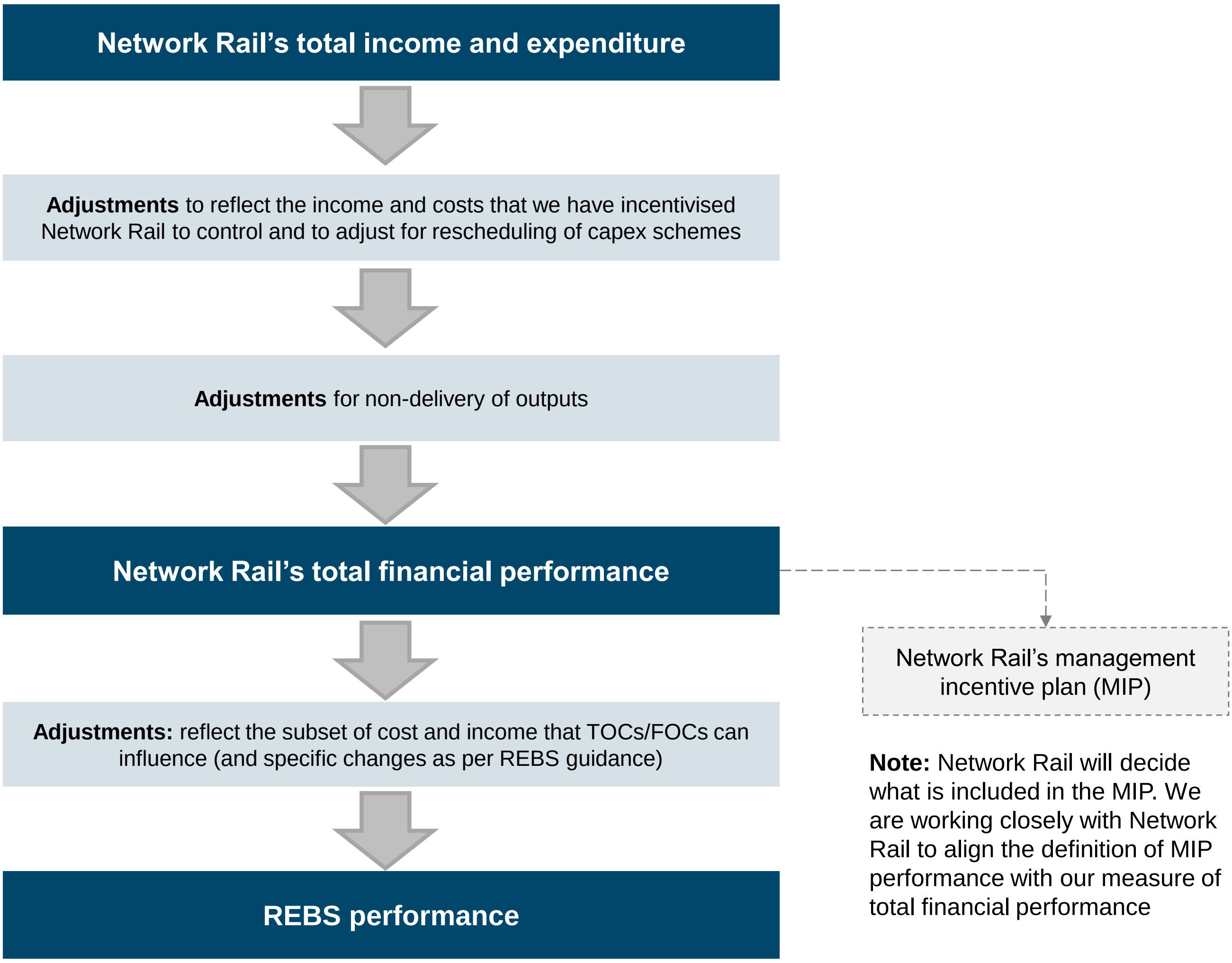
[405] Important though Network Rail's delivery plan is, it is not a substitute for our determination.

[406] The concept of total financial performance is similar to Financial Value Added (FVA) which Network Rail developed in CP4 as a measure of financial performance against its 2009 delivery plan for CP4.

(b) second, we will identify the reasons for the variances in income and expenditure and what Network Rail's total financial performance has been. This will mean that we will not include a rescheduling (e.g. deferral) of renewals spend as financial outperformance but we would include a sustainable change in the scope of renewals work as outperformance. This will also involve us assessing whether Network Rail has delivered the under/over spend in accordance with our determination and our regulatory accounting guidelines (RAGs), e.g. has it met its required output targets and maintained the long-term asset condition of the network in accordance with its licence and our determination; and

(c) then we decide how that total financial performance should be reflected in the REBS mechanism.

Figure 23.1: Calculating REBS performance



The treatment of interest costs and input price changes

23.43 Changes to Network Rail's interest costs and input prices can have a significant effect on Network Rail's total financial performance. As we consider these to be controllable issues we are proposing they should be included in our measure of total financial performance.

23.44 The advantage of including interest costs and input prices in the total financial performance measure is that it incentivises Network Rail to manage them efficiently and is consistent with our approach to risk and uncertainty. However, the disadvantage is that this may appear to reward Network Rail for factors that may to some extent be outside of its control. For example, Network Rail's interest costs are sensitive to changes in market interest rates.

23.45 To better inform stakeholders about Network Rail's total financial performance we are proposing that in addition to comparing interest costs to the PR13 determination we should also compare them to market rates in our supporting analysis. This would enable stakeholders to understand better the reasons for Network Rail's performance.

The treatment of renewals financial performance

23.46 Our assessments of Network Rail's financial performance for renewals expenditure have been difficult in CP4 for a number of reasons including:

(a) uncertainty about the sustainability of Network Rail's asset management policies, in particular for its civils assets;

(b) Network Rail's failure to deliver outputs, in particular for performance;

(c) significant levels of variability in projected renewals volumes and costs in delivery plans compared to actual volumes and costs, implying instability in the renewals delivery process; and

(d) lack of auditable evidence to justify that underspend was efficient.

23.47 Given these issues we need to consider whether all renewals scope (i.e. volume changes) and unit cost savings should be included in total financial performance. The main options that we are considering are:

(a) include all renewals. This approach would provide Network Rail with the strongest incentive to improve efficiency;

(b) include only some aspects of renewals spend. This approach would allow us to de-scope cost savings which are contentious, for example volume/scope savings which are more likely to affect the long-term sustainability of the network and are hard to measure; and

(c) exclude all renewals. This approach to renewals savings would reflect our concerns over Network Rail's reporting of renewals savings in CP4.

23.48 Given that in PR13 we are incentivising Network Rail to be more efficient, we are proposing that all renewals spend should be included in the scope of financial performance. The advantage of this approach is that it provides the greatest incentive on Network Rail to make savings. However, the disadvantage is that as sustainable scope savings are difficult to measure, this approach increases the risk of recognising deferral of necessary work as financial outperformance.

23.49 Therefore, we will require Network Rail to provide robust supporting evidence to demonstrate the sustainability of renewals savings and to have a reporting system in place that will robustly identify out/under performance.

23.50 Therefore, before we allow an aspect of Network Rail's activities to be included in our definition of total financial performance, we propose to require Network Rail to have:

(a) successfully implemented a package of improvements on asset management, e.g. capability, asset policies, asset register, data quality, condition reporting and unit cost information;

(b) an efficiency should be justified by positive management actions and Network Rail should be able to explain how its new approach is consistent with the delivery of its required outputs and its health and safety obligations, is sustainable in the short, medium and long-term and is consistent with whole-life cost minimisation; and

(c) achieved a minimum confidence grade on its reporting of those costs.

23.51 We are working with Network Rail to define what it will need to achieve to meet these requirements and by when it will need to achieve them.

23.52 The burden of proof will still be on Network Rail to show that its performance has been efficient, that it has met its outputs and that its financial performance is sustainable[407].

Consistency with the RAB roll forward policy

23.53 In CP4 if Network Rail outperforms its renewals expenditure target by £100, we recognise the full £100 saving when calculating financial performance. However, our RAB roll forward policy allows Network Rail to keep only £25 of the saving as the risk of out/under performance is shared between Network Rail and its customers and funders. We have retained this approach to the RAB roll forward for CP5. This means that there will be a difference between the amount of money that Network Rail out/under performs by and how much of that money it retains/bears.

[407] Due to the separate treatment of renewals of civil structures in PR13 we will not recognise any underspend on volumes of renewal of civil structures in CP5 for financial performance purposes.

23.54 When measuring financial performance we therefore need to consider whether we include the efficient underspend fully as outperformance, i. e. in the above example do we include the £100 or the £25?

23.55 The approach we used for CP4 reflected our objective of making the EBSM as straightforward as possible. However, it is not consistent with the reward Network Rail receives through the RAB roll forward policy. For example in the EBSM it would have to pay TOCs/FOCs £25, which would mean it would keep £0 for a renewals saving.

23.56 However, REBS is a more commercial approach and we need to ensure that the incentive on Network Rail is appropriate in CP5. Therefore for CP5 we are proposing that our definition of financial performance should be consistent with our policy for rolling forward the RAB, in particular the treatment of logging up or down under/overspend on renewals and enhancements expenditure. Using the above example we would include £25 as outperformance.

23.57 The advantage of our proposed approach is that it aligns Network Rail's financial reward/penalty for renewals and enhancements expenditure (through the RAB roll forward mechanism) with the basis for calculating REBS payments. This should improve the incentive on Network Rail to make REBS work.

23.58 The disadvantage is that it makes it harder to understand how the financial performance underpinning REBS payments has been calculated, as REBS payments will not be based on the cash saving. We will hold a workshop on setting REBS baselines with the industry ahead of our final determination. One of the issues we will discuss is whether taking this approach to calculating financial performance would overcomplicate REBS.

Effect of Network Rail not delivering its regulatory outputs

23.59 In CP4 we adjust Network Rail's financial performance to reflect failures to deliver its regulatory outputs. For CP5 we think that there are two main options:

(a) hurdle approach: Network Rail cannot outperform financially if it does not meet all (or materially all) outputs; and

(b) adjustment approach: we adjust Network Rail's financial performance to reflect the impact of not delivering outputs.

23.60 The advantage of the hurdle approach is that it sends a very clear message to Network Rail about the significance of delivering its outputs. However, it may incentivise Network Rail to invest in uneconomical initiatives to achieve this. Network Rail opposes the hurdle approach because it does not recognise the company's need to balance different requirements.

23.61 The advantage of the adjustment approach is that it is consistent with Network Rail being able to make decisions about trade-offs between delivering its outputs and providing value for money to customers and funders. This is the approach we use in CP4.

23.62 Given the perverse incentives that could exist with the hurdle approach, we are proposing to continue to use the adjustment approach.

Treatment of one-offs and other changes

23.63 Material one-off changes to Network Rail's income and costs can distort the assessment of Network Rail's financial performance. So we need to consider how to treat them. Material one-offs could include:

(a) one-off changes in costs, e.g. changes in tax law, such as an increase in national insurance contributions; and

(b) a decision by Network Rail to buy an asset rather than to lease it.

23.64 In order to be consistent with the rest of the financial framework and in particular our approach to risk and uncertainty, we think that our assessment of Network Rail's financial performance should reflect our PR13 financial framework, i.e. if we consider that a cost is controllable, all changes in that cost should be included in financial performance. This would include material one-off changes.

23.65 The issue of how to treat a buy/lease decision is a similar issue to the issues involved with spend to save schemes, i.e. we do not want to incentivise Network Rail to take inefficient decisions. Therefore, both our RAB roll forward policy and our assessment of financial performance should hold Network Rail neutral to such changes and not provide Network Rail with perverse incentives. This is discussed further in the RAB roll forward section of chapter 12.

Presentation of our assessment of financial performance

23.66 It is important that we present our assessment of Network Rail's financial performance in as easily understandable a way as possible. The two main ways of doing this are:

(a) use the PR13 determination as the CP5 baseline; and

(b) report on total financial performance instead of focusing on support, operations, maintenance and renewals. This should also help to present a more rounded and balanced assessment.

23.67 Also, reporting on a single total performance measure in monetary terms (i.e. £m) rather than reporting efficiency savings in percentage terms, should also help inform stakeholders as efficiency savings presented as a percentage can be misleading as the materiality of the saving is not clear. However, we recognise that it is useful to have a time series of efficiency data available, so we will continue to publish information in our supporting documentation showing the percentage improvement in the efficiency of support, operations, maintenance and renewals expenditure.

23.68 We will also provide other information in our annual assessment such as unit cost movements and we are planning to report on financial performance at an operating route level.

23.69 More technical issues with the way we present Network Rail's financial performance include:

(a) Network Rail in its SBP, presented its CP5 efficiency proposals on a net basis (i.e. net of traffic growth). We think it is more understandable to present Network Rail's financial performance on a gross basis; and

(b) in its SBP some of the efficiencies Network Rail will deliver in CP5 are embedded in its pre-efficient assumptions as they are the result of a change in asset policy. We have removed these from our pre-efficient assumptions and included them instead in our assessment of efficiency.

23.70 How we present our assessment of Network Rail's financial performance will be set out in our RAGs which we will publish in December 2013.

23.71 We would welcome comments on our financial monitoring proposals.

Reporting

23.72 In CP5, we will continue to publish overall assessments of Network Rail's delivery of outputs and its financial performance at least annually. This will include our Network Rail Monitor and our annual letter to Network Rail's remuneration committee. We will also publish an annual report about health and safety across the industry, including Network Rail.

23.73 By providing objective, clear and reliable information we will help Network Rail's customers, members and other stakeholders to better understand its performance, help to drive improvements and hold it to account.

23.74 As in CP4 we will continue to publish summaries of any audit reports we commission on aspects of Network Rail's delivery (or the full document where possible). But we will also publish more information about Network Rail's performance at the individual route level.

Whole industry scorecard

23.75 In our outputs consultation we proposed to establish a whole industry scorecard for CP5. This would allow us to report Network Rail's progress in the context of progress against the outcomes we want to achieve and wider industry trends.

23.76 We gave an example of how such a scorecard might be structured and asked for views and suggestions.

23.77 The idea was received positively, with widespread support. No alternative structures were proposed. Some cautionary points were that the scorecard should not be a focus in itself and it should be simple and easy to understand, but a 'traffic light' approach should be avoided as that would be too simplistic. There was a view that the work to establish a scorecard should be outside of our PR13 work to avoid distracting from priorities.

23.78 The themes were:

(a) data should be drawn from that already in the public domain - no new burdens should be created to provide data (DBS, FirstGroup, Network Rail);

(b) measures that are outside of the industry's direct control, or were seen as providing little value, should not be included - e.g. connectivity, a GDP-related measure, accessibility (ATOC, FirstGroup, TfL);

(c) the scorecard should be capable of disaggregation to a local level (Centro, Merseytravel, Nottingham City Council, Transport Scotland);

(d) an accessibility measure should be included (London TravelWatch, RMT); and

(e) a safety measure should be included (Go-Ahead Group, RMT).

Our view

23.79 In view of the clear overall support for a whole industry scorecard we will, as proposed, establish a template for CP5 using either the same structure we suggested (in Table 23.1) below or one similar to it.

Table 23.1: Whole industry scorecard: Great Britain, England & Wales and Scotland

Output framework					
Outcomes	Passenger satisfaction	Freight market share	Support for the economy	Connectivity	Direct greenhouse gas emissions - traction energy
Measure	% [408]	%	No single measure - but read-across from 'Industry finances' and 'Connectivity'	Number of services timetabled [409]	grams CO_2: per passenger km and per net freight tonne
Current frequency of availability	6-monthly	annual	-	-	annual
Volumes	Passenger journeys	Passenger km	Freight tonnes lifted by market	Freight net tonne moved by market	
Measure	number [410]	km	tonnes	tonne km	
Current frequency of availability	quarterly	quarterly	quarterly	quarterly	
Supply	Passenger train km	Passenger vehicle km	Freight train km	Freight vehicle km	
Measure	km	km	km	km	
Current frequency of availability	4-weekly	annual	annual	not currently available [411]	
Industry finances	Ticket revenue	Freight revenue	Other revenue	Costs	Subsidy
Measure	£ million	£ million	£ million	£ million	£ million
Current frequency of availability	quarterly	quarterly	annual	annual	annual

[408] Potential sub-measure for scores at major stations.
[409] Potential joint measure for journey time indicator.
[410] Potential sub-measures for '*Passenger Assist*' bookings and/or *Disabled Persons Railcard* as accessibility indicators.
[411] Held in Network Rail's billing systems but not currently reported.

23.80 We already receive most of the data a scorecard would need. We agree with views that the scorecard should not add any regulatory or administrative burden and where further data is needed beyond what we already collect, we will only use data that is already collected elsewhere. For ‘passenger vehicle km’ and ‘freight vehicle km’, this would mean asking Network Rail to extract and report data it holds in its billing system.

23.81 There are difficulties with obtaining data for the ‘Support for the economy’ indicator. Railway-related activity supports the economy in many ways, both directly and indirectly. For example, workers commuting by train contribute positively to the economy - a good outcome. However, attempting to calculate the effect on the economy as if we had no railway would be impracticable. Some respondents suggested that we omit a GDP-growth indicator as it would rely on non-railway factors and would add little value. We can, however, take the revenue data indicators captured in the ‘industry finances’ section of the scorecard to provide some indication of support.

23.82 There were also some views that an indicator for ‘Connectivity’ would rely on others outside the rail industry and it would add little value. However, a way of dealing with this would be to use the number of timetabled passenger services as a simple and straightforward indicator of connectivity. It would also contribute to the ‘Support for the economy’ picture.

23.83 For connectivity, we are also considering having a ‘journey-time’ indicator. We will work with Network Rail and Transport Scotland to develop a suitable measure, reflecting the Scottish Ministers’ particular concerns set out in their HLOS.

23.84 The inclusion of an accessibility metric was suggested by two respondents with another in opposition. The latter argued station accessibility data would require collection by infrastructure managers but they would not own it, creating a burdensome ‘post office’ role. We think that ATOC’s data for Passenger Assist booking requests and/or sales of the Disabled Persons Railcard could, as alternates, show how accessible the railway network is becoming. For example, if Passenger Assist bookings were to decline while sales of Disabled Persons Railcards increased this might indicate the network was becoming more accessible. We will discuss with ATOC the availability of its data as an accessibility indicator.

23.85 There have been improvements in safety risks to passengers and workers during the last five years and both we and the Secretary of State want to see further continuous improvement. Although we do not intend to include a safety-related indicator in the scorecard, we will continue to monitor and report on Network Rail's compliance with its health and safety obligations, implementation of its safety strategy and its safety management maturity throughout CP5.

23.86 As proposed, the scorecard has 17 categories, seven of which require data which are only available annually. We therefore intend to publish the scorecard annually, probably in our end-of-year *Network Rail Monitor* given our intention of placing Network Rail's performance in a wider industry context.

23.87 The scorecard appears to be most useful in a national context although disaggregating by funder, region, route or train operator is desirable, as noted by regional funders. However, beyond 'funder' level, the data does not always appear to be sufficiently granular to be robust or add real value. This makes one single structure for a scorecard difficult to achieve and we will need to consider what approach to take if it is to be used at a very local level.

24. Review of wider impacts

Key messages in this chapter

- In reaching our decisions, we have had regard to the impact of our determination on those groups that will be affected by it.
- The impacts are caused by the effects of our decisions on outputs such as train service reliability and enhancement projects. But the impacts also come about through our decisions on financial incentive mechanisms, which often affect the whole industry.
- Overall, our determination will deliver significant benefits for passengers, freight customers, passenger and freight operators, taxpayers and funders. These benefits come mainly through the improvements to the network to be delivered by Network Rail and the reduction in its revenue requirement.

Introduction

24.1 Elsewhere in this document we have set out our assessment of the impact of our determination on Network Rail and on rail safety. We have also discussed the impact on the UK and Scottish governments in terms of the delivery of HLOS requirements for the money available.

24.2 This chapter sets out our assessment of the wider impact of the proposals on:

(a) passengers;

(b) passenger train operators;

(c) freight customers;

(d) freight train operators;

(e) geographic areas in Great Britain;

(f) the railway supply chain; and

(g) local, regional and devolved funders of the railway.

24.3 We have had regard to the relevant wider impacts in reaching our decisions on the overall package.

24.4 Under the Equality Act 2010, ORR is required, when exercising its functions, to have due regard to the need to:

(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under that Act;

(b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it (relevant protected characteristics are – age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation); and

(c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

24.5 We have concluded that the relevant impacts and potential impacts of this review relevant to this duty principally concern the effect on passengers. Our assessment of these is set out below.

24.6 We welcome comments from stakeholders on this chapter.

Overview of impacts

Passengers

24.7 As part of the review we have undertaken a considerable amount of work to understand what matters to passengers. This has included in-depth discussions with Passenger Focus and London TravelWatch about Network Rail's SBP. We have also drawn on our wider work beyond the specific scope of the review, for example, our work looking at passengers' experience of buying tickets, working with train operating companies to understand how they handle complaints and deal with passengers more generally, and working with our consumer expert panel.

24.8 We have taken into account the work that Passenger Focus has done to understand passenger views, most notably in the National Passenger Survey but also through more focused research. We have had regard to the priorities that Passenger Focus's research has indicated that passengers value the most in those areas which we are able to influence through our periodic review. These are value for money, punctuality, reliability and there being sufficient train services at the time passengers want to use them[412]). Our determination takes account of these passenger priorities as follows:

(a) providing extra capacity to accommodate growth and provide new and improved journey opportunities. Major projects such as the Great Western upgrade, Crossrail, Thameslink, the Edinburgh-Glasgow improvement programme and Northern Hub will be key to this, alongside a large number of smaller scale capacity enhancements;

(b) the criteria for governance of the ring-fenced investment funds which will explicitly include securing passenger benefits. This builds and improves on the arrangements in place for CP4 and should provide greater focus on the needs of passengers, with their representatives having a greater say in the selection of projects to be funded. We will also be monitoring the benefits delivered to passengers through the ring-fenced funds to ensure that these are used properly;

(c) for those enhancement schemes that are at an early stage of development (see chapter 9), the process for confirming the detailed scope of each project will include specific provision for train operator input on behalf of passengers;

(d) improving levels of train service reliability despite the major programme of renewal and enhancement, and requiring improvement on the current worst performing services with every franchised train operator in England & Wales reaching 90% of trains on time (as measured by PPM) by 2019. This will benefit those who travel with those operators currently below 90% PPM;

(e) a reduction in levels of train service disruption due to engineering works despite the scale of the investment programme. We recognise that this is a particular concern of passengers through Passenger Focus's research;

(f) ring-fenced funds providing for continued investment in station enhancements. This includes around £100m specifically earmarked for further improvement in accessibility for disabled passengers and others with reduced mobility in England & Wales, and part of the £30m Scottish Stations Fund for this purpose

[412] *Passengers' priorities for improvements in rail services*, Passenger Focus, available at http://www.passengerfocus.org.uk/media/f0f44dda1a6af4f3c8940c7623b57102d9783155/rail_priorities_for_improvement.pdf.

in Scotland. We have retained the Station Stewardship Measure relating to the overall condition of stations as an output requirement for Network Rail to deliver;

(g) the passenger journey time fund, which will improve journey times on routes in England & Wales;

(h) specifically for the East Coast Main Line there will be ring-fenced funding to reduce journey times and increase capacity;

(i) the funding for Network Rail's operating strategy should facilitate improvements to passenger information during disruption;

(j) our proposed improvements to the volume incentive, under which Network Rail benefits financially from increased rail usage, will give the company a stronger incentive to work with train operators to improve service levels for passengers; and

(k) the overall package, including in particular the proposed approach on asset management, will improve the reliability and quality of the railway over the longer term, including its resilience in the face of climate change.

24.9 In considering the implications of this review for our equality duty, we have taken the view that all passengers will benefit from many of the improvements. However there will be specific benefits in respect of the protected characteristics of age, disability and pregnancy and maternity. These will arise particularly from improved accessibility at stations from the specific ring-fenced funds required by the HLOS and also the schemes which will facilitate introduction of new more accessible rolling stock.

24.10 The increase in payment rates in the Schedule 4 and 8 possessions and performance regimes will strengthen the financial incentives on Network Rail to plan and deliver engineering work efficiently and more quickly and to improve performance. This will benefit passengers through a reduction in planned and unplanned service disruption. This is because Network Rail will have to pay more compensation for each possession it arranges, or minute of lateness it causes. There will also be a reduction in the compensation that train operators receive through Schedule 4 for the cost of operating replacement bus services. This will reduce the risk that train operators agree to possessions which involve the use of replacement buses without having fully explored whether alternative timetable solutions are available which cause less disruption to passengers.

24.11 We will be publishing more information of interest to passengers on the quality of their train services, through an extended range of published indicators, including for example, the impact of engineering works on passengers. This will better enable passengers and their representatives to understand what is being delivered and seek improvement.

24.12 Through including the National Passenger Survey measures of overall satisfaction as an indicator in our output framework, we will monitor the impact of our determination on passengers. More specifically we are reviewing how to measure the benefits to passengers (including those with protected characteristics) that are delivered through improvement projects.

24.13 In terms of what this means for passenger fares, we do not regulate these. Network Rail's revenue requirement is funded through access charges paid by train operators and network grant paid direct by the governments. It is for DfT and Transport Scotland, as the franchising authorities, to decide the balance between fares and taxpayer subsidy and to regulate fares for franchised train operators (open access passenger operators set their own fare structure).

24.14 However, Network Rail's revenue requirement is reducing compared to PR08 which means that access charges and network grant will be lower. In terms of the like-for-like costs of operating, maintaining and renewing the existing network (including support costs), there will be a reduction of around £2bn compared to PR08.

Passenger train operators

24.15 Under our proposals, franchised and open access passenger train operators will benefit from the improvements that their customers will receive, as outlined above. In addition, they will benefit from:

(a) the improved approach to joint performance planning (where Network Rail work with train operators), which should better reflect the needs of train operators in terms of local opportunities and constraints;

(b) the incentives to work together with Network Rail to improve the efficiency and delivery of the railway (such as through our REBS mechanism discussed in chapter 19) and where appropriate to develop alliances to drive out efficiencies that Network Rail, acting alone, may not achieve. For franchised operators, this is particularly important because their franchise agreements (regulated by their franchising authority) currently limit the extent to which they are exposed to changes in charges made at a periodic review. This blunts the incentive effect of the changes we make, limiting cost-reflectivity and the inducement on train operators to work with Network Rail to reduce its costs. However, the new REBS mechanism we are introducing will provide an incentive for those franchised train operators that participate in REBS to work with Network Rail to identify sustainable efficiencies that can be made in the running of the network. TOCs will then be able to share in the financial benefits arising from this;

(c) the incentives to work together with Network Rail to improve specification and effectiveness of the enhancement programme through the enhancements efficiency benefit sharing arrangements set out in chapter 9;

(d) the improvements to the volume incentive that will encourage Network Rail to take a more commercial approach to managing network capacity. This should enable more services to be operated on the network and for train operators to increase their revenue; and

(e) for open access operators, we will shortly be consulting on proposals for increasing the opportunities for competing with franchised train operators in return for open access operators bearing higher charges as a contribution to Network Rail's fixed costs[413].

Access charges

24.16 On average, PR13 will have very little impact on the variable charges paid by passenger train operators. The impact will however vary between different types of vehicle. But, overall, for both franchised and open access operators, average variable charges will increase by around 1%. Chapter 16 sets the background to this out in further detail.

Schedules 4 and 8 possessions and performance regimes

24.17 The increase in traffic on the network and revenue, and updated evidence on the sensitivity of passenger demand to disruption, mean that the financial impact of possessions and lateness on passenger operators has increased. This is reflected in the draft CP5 Schedule 4 and 8 payment rates. This means that train operators will be

[413] This will be published shortly after this draft determination and will be available at http://www.rail-reg.gov.uk/pr13/consultations/index.php.

better protected against the risks around Network Rail's performance and possession management.

24.18 Conversely, passenger operators will face greater Schedule 8 risk around the impact of their own performance on other train operators. This will have a greater impact on passenger operators whose services have a greater interaction with those of other operators. Ultimately, this is a risk that train operators can control. Overall, we expect the benefit of the additional protection from the increase in Schedule 4 and 8 payment rates to outweigh this risk.

24.19 Changes to Schedule 8 for open access passenger operators are the same in structure as for franchised passenger operators. Open access passenger operators will benefit from increased Schedule 4 payment rates when there are very long possessions or sustained disruption.

24.20 For charter passenger train operators we estimate that, overall, the package we plan to introduce in relation to Schedule 8 and the capacity charge will result in them being, on average, slightly better off than they are currently, but this will depend on the final capacity charge payment rate that we determine. We will be further refining our analysis, and discussing our planned package with charter operators and Network Rail between now and our final determination, as discussed in chapter 19.

Freight customers

24.21 Our latest survey of potential and existing freight customers, which we plan to publish later this year, indicates that the priorities for freight customers in the domestic market are price, followed by service quality (e.g. punctuality) and then access to the mainline network. Under our determination freight customers will benefit from:

(a) continued enhancement of the railway's capability to carry freight, particularly through continued investment in the Strategic Freight Network. Freight customer representatives will be actively involved in planning this;

(b) freight train performance tracked through a new measure which is more transparent and better meets customer needs;

(c) reduced service disruption due to engineering works; and

(d) as above, the improved incentives we are putting on Network Rail to take a more commercial approach to capacity. This should enable more services to be operated on the network.

24.22 Chapter 16 sets out more fully the impact of our determination on access charges paid by freight operators. Overall, in real terms, average freight charges are set to increase by around 21% on current levels by 2018-19, equivalent to 4% a year on average. For commodities not affected by the freight specific charge (i.e. everything other than ESI coal, spent nuclear fuel and iron ore), the corresponding increases are, on average, 5% on current levels by 2018-19 and 1% a year over CP5.

Freight train operators

24.23 Freight train operators will benefit from the improvements that their customers receive as discussed above. They will also benefit from:

(a) the incentives to work together with Network Rail to improve the efficiency and delivery of the railway, through our REBS mechanism. As for passenger operators, this will provide for FOCs to benefit financially where they work with Network Rail and deliver efficiencies that outperform our expenditure assumptions;

(b) the incentives to work together with Network Rail to improve specification and effectiveness of the enhancement programme through the enhancements efficiency benefit sharing arrangements set out in chapter 9; and

(c) the development of better measures of Network Rail's performance in planning and timetabling the network (its 'system operator' role) will help address a particular area of concern to freight operators such as how it plans engineering work and effective management of interfaces between different devolved routes and with adjoining networks.

Access charges

24.24 The access charges paid by freight operators are discussed under freight customers above.

Schedules 4 and 8 possessions and performance regimes

24.25 We have updated Network Rail's Schedule 8 benchmark as part of PR13. Schedule 8 is expected to be financially neutral during CP5 (i.e. net payments of zero), if Network Rail and freight operators perform in-line with our expectations.

24.26 The Schedule 8 freight operator payment rate, which reflects the average impact of a minute of delay caused by a freight operator to another train operator, will increase for CP5. This is as a result of the increase in the passenger Schedule 8 Network Rail payment rate. While we expect net payments to be zero across freight operators as a whole, this rise increases the financial risk that freight operators face in relation to delays they cause to other trains.

24.27 We expect freight operators to benefit from the bonus payment rate being changed so that it is 100% of the compensation payment rate (as opposed to 50%). This will give them more certainty over the impact of improvements they make in their performance in respect of the Schedule 8 payments they make during CP5. It will also help ensure that Schedule 8 remains financially neutral if performance is at the expected level over each year as a whole.

24.28 Unlike franchised passenger operators, freight operators do not pay an access charge supplement to cover the expected cost of Schedule 4 compensation. There is also no Schedule 8 benchmark for cancellations. Instead freight operators receive compensation for cancellations caused by Network Rail or other train operators. Network Rail receives funding to cover the expected cost of both these elements of Schedules 4 and 8.

24.29 Schedule 4 payment rates will remain the same as in CP4 in real terms, so freight operators will be no better or worse off.

Geographic impacts

24.30 The geographic impacts of our determination relate principally to the large programme of enhancement projects being funded through this determination. This will boost capacity and the capability of the network and bring substantial benefits to train operators, passengers, freight customers and the national economy. The decisions on these projects reflect the requirements of the governments' HLOSs. Further detail on these schemes is set out in chapter 9. However, those areas that will particularly benefit are set out below.

(i) In the south east of England, Thameslink, Crossrail and East-West Rail will provide new journey opportunities and better travelling experiences for passengers.

(ii) The north of England will benefit from the North West electrification programme and the Northern Hub, a substantial set of capacity and journey time improvements between Manchester, Sheffield, Preston, Leeds and Bradford.

(iii) A major programme of electrification, representing around 30% of enhancements expenditure, covers a significant portion of Great Britain, including Edinburgh-Glasgow, Manchester – Leeds-York, London – Bristol – Cardiff – Swansea, Welsh Valleys and London to Sheffield. These electrified routes will allow new or cascaded electric rolling stock to replace the current diesel trains. These will be quieter, pollute less and offer better acceleration and breaking, reducing journey times on many routes.

(iv) Scotland will also benefit from the Borders Railway project which will connect Edinburgh through Midlothian to Tweedbank for the first time since 1969. There are also journey time improvement schemes that cover Aberdeen to Inverness and the Highland Main Line. As well as being electrified, the Edinburgh-Glasgow route will benefit from capacity improvements to allow longer trains and faster journey times.

24.31 There will also be improvements to safety, particularly through a reduction in the risk of accidents at level crossings through the £67m ring-fenced fund made available by the Secretary of State. Whilst not specifically for safety improvements, Scotland will also benefit from a £10m fund to provide for closing crossings. These funds will benefit those using level crossings and those using the railway. The level crossings this will apply to will be decided through the governance arrangements to be established for these funds.

24.32 The whole investment package will support economic growth and facilitate improved business, commuter and leisure journeys. It will also provide a greener transport option than road and aviation, and help relieve congestion on the road network.

Suppliers

24.33 The key benefits for the railway supply chain of our proposed determination concerns its ability to plan:

(a) within CP5, where we have confirmed funding for Network Rail's renewal programme and a large part of the enhancement programme. To the extent that we have not been able to confirm this funding (for the full programme of structures renewals and for those parts of the enhancement programme still at an early stage of development), we have set timescales within which we expect the projects to be developed. We have made clear that we expect Network Rail to develop its CP5 delivery plan in parallel with responding to this draft determination, and that this plan must be published before the start of CP5, following consultation. This should reduce the risk of a discontinuity in orders early in CP5, as happened in CP4;

(b) beyond CP5, more effective whole-life asset management should enable greater long-term certainty of renewal requirements. The funding allowed for longer term planning and project development should enable early development of plans beyond 2019;

(c) we have authorised Network Rail to develop CP5 projects now in CP4, to ensure there are no undue delays in CP5;

(d) our proposals on research and development should facilitate more effective working between suppliers and Network Rail in this important area; and

(e) suppliers will be involved in the planning of enhancement projects and helping to drive greater value for money, particularly in those projects that have not yet been developed to GRIP 3 level.

24.34 We believe the proposed package as a whole gives Network Rail strong incentives to work with its supply chain to improve longer term value for money on the railway.

24.35 The new measure of programme management capability we are developing with Network Rail should lead to closer and more effective working with the supply chain.

Taxpayers

24.36 Our determination will deliver significant benefits for taxpayers. It will:

(a) facilitate sustainable economic growth and improved competitiveness through better connectivity for commuters, businesses, communities and the carriage of freight; and

(b) provide better environmental outcomes from reduced emissions and carbon savings, particularly through electrification and from the improvements to the network facilitating the transfer of road to rail.

24.37 As discussed previously Network Rail's revenue requirement is falling compared to PR08, which, other things being equal, reduces pressure on the public purse.

24.38 Taxpayers will also benefit from the changes to Schedules 4 and 8 possessions and performance regimes that protect train operators against the risk around Network Rail's performance and possession management, which they cannot control. This should help keep down the risk premia factored into franchise bids, or negotiations over extensions, reducing the consequential costs to taxpayers.

Local, regional and devolved funders

24.39 The main focus of our review as far as funders are concerned has been on the primary funders – the UK and Scottish governments. The proposed determination does, however, have significant benefits for other funders such as the Welsh Government, passenger transport executives in the English city regions, Transport for London and local authorities. In particular they will benefit from the range of improvements to the network such as electrification of the Valley Lines in Wales, the Northern Hub, Crossrail and Thameslink.

24.40 We will build on the decentralisation of Network Rail to improve transparency of costs and subsidy at local level. This should provide better information for decision making, and facilitate greater local involvement in the specification and funding of services and of enhancements to the railway.

Monitoring of impacts

24.41 We will monitor the impact of the determination on the above groups, including:

(a) for passengers, through our monitoring of the indicators we are putting in place, through continuing engagement with Passenger Focus and London TravelWatch, and bespoke research;

(b) for freight customers, by continuing to carry out regular freight customer satisfaction surveys and engaging with the freight sector to monitor the impact of our determination on freight users;

(c) for train operators, through our continued focus on Network Rail’s customer satisfaction surveys and the new measure of customer service maturity, and through continuing dialogue with train operators and owner groups;

(d) for suppliers, through further engagement with industry representatives including the Railway Industry Association (RIA) and the Civil Engineering Contractors’ Association (CECA). We will use supplier perception surveys (both these carried out by Network Rail and those carried out by organisations such as RIA) to monitor the impact of our determination on the supply chain. If satisfaction levels dropped, we would want to understand the reasons for this; and

(e) for local, regional and devolved funders, through our dialogue with key stakeholders, including the Scottish and Welsh governments, the Local Government Association, Transport for London, PTEs and PTEG. This will be particularly important in helping us to understand how well the process of the management and allocation of the ring-fenced funds has worked.