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Go-Ahead

Office of Rail Regulation
One Kemble Street
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4 September 2013

By email to draft.determination@orr.gsi.gov.uk

Dear colleague,

Periodic review 2013: Draft determination of Network Rail's outputs and funding for 2014-19

Thank you for the opportunity to respond to the consultation on the draft determination for Control Period 5. This letter constitutes the Go-Ahead Group's response and also represents the views of London Midland, Southeastern and Southern Train Operating Companies.

I confirm no part of this response is confidential and can be published on your web site.

We believe that the ORR have set a series of outputs that, provided they are delivered as required, will provide a strong and robust framework that will ensure operators are able deliver the rail services that our passengers and the industry funders require. The outputs are supported by a funding structure and level that is realistic, while requiring a challenging yet achievable level of efficiency improvement. We therefore welcome the draft determination and are content that the ORR have set outputs and funding that meet the needs and requirements of the industry and that the level of investment will deliver long term benefits to the UK rail industry.

It is important however to make two important qualifications to this support. Firstly, we expect all the required outputs to be delivered. It would not be acceptable for the majority of the outputs to be met but others not to be met. We expect Network Rail to deliver all the required outputs and for the ORR to hold them to account if this is not the case. Secondly, an outstanding question that remains for us is whether the series of incentives set out in the Draft Determinations will result in driving the right behaviours and attitudes, and will result in a capability and desire within Network Rail to deliver their customer requirements? At this stage we retain some concerns over whether the incentives will achieve this aim.

In this context, in addition to consideration of the specific issues set out below, it would be helpful if in the final determination the ORR sets out clearly and without ambiguity how it intends to monitor Network Rail's delivery and hold Network Rail to account to ensure that all required outputs are delivered on schedule in CP5.

We have a number of detailed points relating to elements of the Draft Determinations which are set out below. These points should also be considered in the context of our overarching comments on the Draft Determinations above.

Performance

1. We fully support the principle of setting a challenging, but realistic, 92.5% national PPM target. Network Rail must deliver this level of performance so that its customers, rail operators, can deliver the services to the level of reliability and punctuality that is expected and required by our customers, the end users of the railway.

2. We also fully support the proposal for consistent PPM target figures split by year in CP5, as this should encourage a focus on consistent performance delivery throughout the Control Period rather than focusing too heavily on a 'headline' CP5 exit figure. Achieving these performance targets will of course require close monitoring of performance at TOC and Service Group level, and potential Regulatory enforcement action where necessary. JPIPs have an important role in allowing this monitoring to take place at a TOC level and to create regulated Customer Reasonable Requirements for each year of the control period. One key lesson to be learnt from CP4 relates to performance in the long-distance passenger sector, whereby network performance had been below an acceptable level for a considerable period of time (despite operator complaints), before Regulatory action was taken and Network Rail subsequently made serious attempts to identify and address the underlying issues.

3. Whilst we fully support the challenging but achievable performance targets, we also acknowledge that there are understandably going to be links between performance improvement targets and other incentive mechanisms for CP5 that need to be fully understood. For example, PPM targets should of course be challenging but not so punitive as to act as a potential deterrent to Network Rail to maximise the availability of network capacity, which the Capacity Charge incentive seeks to encourage. We would expect the ORR to require Network Rail to engage meaningfully with operators to understand these interrelationships and identify appropriate solutions, however the focus must be on solutions that meet all requirements, not an excuse as to why the required performance requirements and capacity cannot be delivered.

4. The proposal to disaggregate PPM targets by TOC, with a minimum 90% PPM target for each passenger operator is also fully supported, as this should help remove any residual risk whereby Network Rail could be end up focusing attention too heavily on a particular TOC or route just to manipulate network-wide PPM improvements, whilst perhaps allowing performance of other TOCs to fall. Similarly, the JPIP-2% mechanism must continue in CP5 to give reassurance to TOCs performing over the 90% that Network Rail will continue to work towards improvements at this higher level as contractualised in the JPIPs. Network Rail and operators should be encouraged to concentrate on improving performance on historically poor-performing routes, but this should not be at the detriment of other routes already achieving high PPM figures over 90%, as these routes will still come under increased pressure (from growing passenger numbers and ageing

assets, for example) to maintain those high levels of performance throughout CP5. We therefore require the individual TOC 90% PPM target to be integral in the Final Determinations.

Depots and Sidings

5. Depots are an important part of the railway infrastructure, absolutely vital to providing a safe and well-performing railway. In CP5 depots must be better prioritised by Network Rail to bring them up to modern standards, during CP4 there have been a number of instances where this has not been the case, and ownership and accountability for these assets has not been sufficiently defined . Network Rail need to clearly identify senior managers responsible for depot policy and asset ownership to work with TOCs to develop integrated work plans to achieve this purpose. In our view, the final determination must include an appropriate output requirement and identification of the associated funding. We are open minded whether depot funding should be explicitly identified as a separate funding item within the Final Determinations or whether it is delivered as part of the overall settlement, but the requirement to ensure that Network Rail as the owner of these assets ensures they are fit for purpose, investing as required, must be unequivocal. We welcome the recognition of the need for additional depot and stabling requirements to accommodate longer and more frequent trains but this must not be at the expense of existing depots and the essential role that they have in the industry. In CP5 there must be targeted investment in existing facilities to ensure they are fit for purpose, this will underpin the wider objectives of safety and performance.

6. In a similar vein, Network Rail must have clear funded plans to maintain, repair and provide siding capacity that is fit for purpose and up to modern standards. Both depot and sidings improvements could be achieved by learning from best practice recognised in station development with Joint Integrated Planning and Local Development Groups.

Asset Management

7. We support the ORR position on the need for Network Rail to improve its asset management and knowledge of assets such that more confidence and predictability can be developed in asset performance and value over time and we look to ORR to accelerate this necessary development.

Customer Information Strategy

8. We note that the current proposals for industry funds do not include a specific provision for delivery of the core elements of the Customer Information Strategy that were set out in the Industry Strategic Business Plan. These directly complemented the requirements of the Secretary of State for Transport's HLOS. The industry, through ATOC/National Rail Enquiries, has made the case for the important passenger benefits that can be achieved through improving and progressing customer information through delivery of a 'Core' set of interventions that will ensure a robust architecture for the flow of information to customer-facing channels of communication. We recommend strongly that the ORR includes a specific funding route to

achieve these outputs in the Final Determination, with clear expectations that these will deliver the continually-evolving quality improvements to enable all industry parties to meet passenger, industry and regulatory expectations.

Incentives

9. We agree that there are benefits in train operators being incentivised to help Network Rail deliver efficiency we believe that this will be better achieved through alliancing arrangements, than through the proposed REBS mechanism. Alliancing will provide greater transparency in respect of where train operators have been able to contribute to improvements in Network Rail efficiency, whereas the approach under REBS exposes train operators to upside and downside risk across the majority of costs, many of which they will be unable to influence. While remaining supportive of the underlying principles behind REBS, we remain to be convinced that the proposal set out in the Draft Determinations will achieve the stated objectives . Many of the issues raised by operators, including ourselves, in the earlier consultation and industry workshops are not reflected in the current proposal. Given that the funders' position is that only franchises let after the beginning of CP5 will not be expected to opt out of the REBS scheme and any TOCs actively engaged in an alliance will opt out, it is highly likely that very few franchised operators will be subject to REBS during CP5, so we question the value of the proposal.

10. We reiterate our view expressed in our overall comments on the Draft Determinations, namely, we retain reservations about whether the series of incentives within the Draft Determinations will result in the behaviors and outcomes intended, given the unique ownership structure and corporate governance of Network Rail.

Traction Electricity

11. We strongly support the principle that Network Rail must take responsibility for the areas of electricity supply and usage within their control. We agree with ORR's proposal that an incentive is required to get Network Rail to engage with energy reduction initiatives. Network Rail's contribution in this area could have a significant effect on reducing both the industry's costs and carbon footprint, so securing Network Rail engagement is a key output for train operators and our stakeholders.

12. The details of the current proposal have the unintended consequence that in the Southern DC area (where there is a positive wash-up) there is a windfall gain to Network Rail. We strongly support ATOC's proposal that a correction factor is applied to the wash up before any Network Rail share is taken. However, the value of this correction factor is important. If the resulting effect is neutral there is no incentive on Network Rail to manage the transmission losses or maintain efficient supply of electricity.

13. Similarly, where operators are all on metered billing, the current proposals do not provide any incentive on Network Rail to reduce transmission losses as the TOCs pay for the entirety of losses through the DSLF.

14. We think that the ORR should introduce an incentive that results in a clear benefit to Network Rail if it successfully reduces transmission losses. This should be effective whether train operators remain on modelled rates (with wash up) or move to metered billing. . One method would be to set the DSLF at an 'efficient' level of loss which is lower than the current rate to provide a simple incentive to reach this lower level of losses. Reducing transmission losses is important both for Network Rail to demonstrate it is an efficient infrastructure provider and to reduce whole industry costs.

15. We are proud to have jointly led the way with on train meter fitment at London Midland . The business case for Southeastern and Southern relies on the money available in the Safety & Environment Fund and to get best value for this industry money we firmly believe that this funding stream should be rolled over into CP5.

16. Industry progress on Partial Metering is unlikely unless the Final Determination contains certainty about whether the 'extrapolated' portion of partially metered fleets should be fully exempt from the wash up or not.

Indexation

17. We do not believe that moving to 'true up' indexation reflects a real market – in the rail industry, like most businesses, normal practice is that suppliers use the past year's indexation to adjust their charges and therefore there is no mismatch if income does the same. However, we have no objection to the proposal to move to an annual average RPI indexation rate rather than the current use of November RPI.

Access Charges

18. We agree with the principle that variable track access charges should reflect the variable costs to Network Rail, accordingly we support the continuing improvements made to the methodology for calculating VUC & EAUC in the light of improving knowledge.

19. We agree with the ORR's decision to continue for the CP4 approach to calculating the Capacity Charge, given both the level of increase that would have resulted from using Arup's proposed approach and the level of over-recovery (i.e. capacity charge income in excess of Network Rail's schedule 8 out-payments) seen in CP4.

20. We support ATOC's proposal that the interaction between the Capacity Charge, Schedule 8 and the volume incentive needs to be both fully transparent and integrated so that Network Rail is better able to respond to all the incentives and make rational capacity allocation decisions.

21. The Schedule 4 and 8 regimes are an essential incentive to Network Rail to deliver good performance. If Network Rail do deliver better-than-target performance we fully support the resulting Schedule 4 and 8 implication, that TOCs pay them a share of the additional revenue is earnt.

We trust these points are both helpful and will be taken fully into account in the Final Determinations. Please do not hesitate to contact myself if you have any further questions or require and clarification of the issues raised in our response.

Yours sincerely

Richard Stuart
On behalf of
The Go-Ahead Group plc