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Dear Valentine

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

We write in response to your consultation of 12<sup>th</sup> June 2013 regarding Periodic review 2013: Draft determination of Network Rail's outputs and funding for 2014-19.

As ORR notes "rail is a subsidised industry with current support at around £4bn a year" and that "over the five year period of this determination, the governments have committed £18bn". RMT considers that this acknowledgement, in addition to the recognition of Network Rail's debt and the obvious burden that this will place on future generations, requires the ORR, as the economic regulator of the railway to make a clear pronouncement as to the need for the Government to take on the debt.

RMT believes that remedial efforts to reduce this growing problem, such as the introduction of cuts to Network Rail's finances, will in the long term only compound the financial issues faced by Britain's railway, and consequently issues of both safety and value for money. For this reason, RMT is totally opposed to any cuts to Network Rail's finances.

One initial concern that RMT has is the transition between control periods. For example, the transition between CP3 AND CP4 saw a 25% reduction in track renewals and tamping shifts which was subsequently backloaded, led to a reduction

in staffing levels and increased casualisation. RMT believes this impacted on performance and potentially safety.

Additionally, our experience from CP4 has shown us that budgets were driven by assumptions which did not necessarily materialise. For example, efficiencies from the introduction of plain line recognition has clearly been budgeted for despite this technology not having been fully introduced. Consequently staffing levels and other budget areas have been affected without where the budget has been mismatched without an accurate timeline. RMT believes that measures to introduce efficiency (ie. new technology) must be implemented prior to being considered as reason for a reduction in budget.

Specific concerns RMT have include the further cuts recommended to Network Rail's support, operations, maintenance and renewals costs. ORR's draft determination cuts £1,907m more than the figure Network Rail outlined in its Strategic Business Plan.

These include cuts beyond Network Rail's proposals for the following areas:

- £1,684m for renewals costs.
- £139m for support costs.
- £59m for operations costs.
- £26m for tractions electricity costs.
- £24m for maintenance costs.

A cut of £788m beyond Network Rail's suggested figure for enhancements is also being suggested, with an additional £639m being put aside to compensate train operators for any additional disruption during enhancements, due to lateness as a result of asset failure or engineering works.

Network Rail's "risk buffer" of £250m a year is being removed, and the cost of capital to Network Rail is being set at 4.31% (the ORR claim this is the return private

shareholders could expect to receive if Network Rail was a dividend paying private company).

ORR have cut Network Rail's forecast actual cost of finance by some £2,389m.

ORR also claim that Network Rail can generate additional revenue from property management, £376m more than Network Rail stated in its Strategic Business Plan.

ORR state that they want Network Rail's annual net revenue requirement during CP5 to be £5.5bn per annum, as opposed to the Strategic Business Plan's requirement of £5.85bn per annum. In the last control period this amount was £5.82bn per annum.

A new additional access charge for freight trains carrying coal, nuclear fuel and iron ore is being created.

Network Rail has been denied the £300m Research and Development fund it requested in its Strategic Business Plan with the ORR claiming that this will be carried out by train operators anyway. RMT believes that in the past innovation on Britain's railway has primarily been undertaken with the use of public funds and not by the private sector. This was the case with the introduction of the Oyster system in London which was resisted by train operating companies. Another very recent example is the funding by Network Rail, the Department of Transport and the Rail Safety Standards Board of research into independently powered electric trains to operate on tracks without electrification infrastructure. This is also providing Britain's only train manufacturer Bombardier with much needed work. No train operating company is involved in this development.

Furthermore, RMT is concerned that the ORR have given what looks at best like a passive endorsement of Network Rail's route plans. This is an approach which RMT believes Network Rail will understand as a seal of approval.

## **Benchmarking**

RMT remains seriously concerned as the benchmarking undertaken by the ORR on cost efficiencies in Network Rail. RMT also notes that Network Rail, in its Strategic Business Plan, "identified serious problems with the data and its use for analysis".

Despite these figures having been used to misinform the McNulty Rail Value for Money Study, the ORR now claims "we believe that the efficiency challenge identified in the RVfM study for Network Rail will have been fully addressed for CP5". RMT believes this highlights political motivations in the Draft Determination.

RMT has serious concerns that the second "bottom-up" benchmarking exercise has lacked transparency and consequently credibility.

Safety regimes do not appear to have been benchmarked or even taken into consideration, with incidents such as recent derailments in France and Spain raising concerns for the RMT.

Additionally, RMT notes no international comparison of the type of contracts workers are engaged on. For example, directly employed, self-employed or contractor.

## **Maintenance**

RMT believes that Network Rail's maintenance organisation is currently under pressure with reduced staffing levels and consequently capacity to deliver work. Anecdotal evidence from our members contradicts that of the ORR's consultant reports following the budget driven (not workload driven) Phase 2b& c and we believe maintenance, performance and safety will all be affected. RMT believes that the view of our membership, which focuses on workload and the reality on the ground, should hold greater weight than what is ultimately an academic exercise by consultants.

RMT is strongly opposed to risk based maintenance which we believe is detrimental to the safety of the network. We believe that this approach is driven by cost and not risk, and RMT is concerned that the ORR are directing Network Rail towards the development of maintenance holidays. RMT is clearly opposed to continental style maintenance holidays which we believe locks in budgetary cuts on maintenance going forward, or spend on maintenance going elsewhere. Therefore, robbing Peter to pay Paul. RMT is surprised that the ORR seems to endorse such a practice.

Furthermore, issues such as reduced spending on maintaining hedges, trees and banks has already led to drainage issues across the network.

In terms of new working practices, RMT is sceptical as to the proposed approach to multi-skilling. From our experience in speaking to Network Rail managers, each manager will provide a different definition of multi-skilling, and none of which are clear or based on reality.

RMT has, in the past, sat down and discussed changes which we believed would be beneficial to our members, taxpayers and the travelling public. At present the maintenance workforce is highly flexible with multiple competencies. We believe that further multi-skilling is unachievable.

Furthermore, a significant amount of information contained within the draft determination, such as that for maintenance volumes (Table 8.1) appears to be out of context and is unclear as to whether the volumes are steady state or reflect an increase or decrease in volumes. It is also clear that the calculations have taken place without significant consultation with the workforce and its representatives.

### **S&T Teams**

RMT believes the acquiescence by ORR to Network Rail's plan to reduce S&T teams to 2 in Scotland is backward. RMT cannot identify a reason, other than cost-cutting,

for the ORR to believe that the introduction of 2 man teams in Scotland is appropriate.

S&T teams of 3 were introduced thirty years ago to ensure efficient working and improving safety and we are astonished that the ORR are silently endorsing this cut without regard to safety.

This is one of several contradictions in the document which RMT believe is motivated only by cutting costs without sufficient attention being paid to safety concerns.

### **Performance**

RMT notes that the ORR intend on introducing a minimum performance target of 90% of trains on time. We further note that the ORR "adjusted Network Rail's finances in CP5 for not delivering performance outputs".

RMT believes that the introduction of such a performance target, which company feedback informs us is unlikely to be achieved (and that the ORR acknowledge this), is another means of introducing permanent austerity on Britain's rail network, and siphoning additional public money to train operators.

### **Track Renewals**

RMT notes that maintenance work undertaken in-house has reached its performance targets whilst track renewals has fallen below its targets for both CP3 and CP4. RMT believes that this is due to the use of contractors for track renewals and the inefficiencies inherent in such a fragmented approach. RMT therefore calls on the ORR to highlight the necessity for future track renewals work to be undertaken in-house in order to achieve efficiency.

### **Signalling**

RMT believes that any changes to signalling must continue to incorporate local knowledge and expertise, and only be undertaken with the maximum protection for

staff. As recent examples in Wales have demonstrated local route knowledge must also be complemented by other areas of knowledge such as language.

### **Financial Value Added**

RMT believes that incentivising Network Rail to out-perform what ORR state are a "sizeable challenge" is a means to introducing further or secondary cuts at arms length to the economic and safety regulator.

### **Labour supply and zero-hours contracts**

ORR have previously informed RMT that the Draft Determination is not the correct place to regulate the contracting arrangements of Network Rail. RMT notes, however, that Network Rail, have included increased use of contractors in its Strategic Business Plan (as an economic issue), and so it is an issue which the ORR should address.

RMT believes that Network Rail continue to use zero-hours contractors in response to ORR claims regarding the cost efficiency of the workforce (since discredited), and ultimately this has led to a deterioration of the safety, terms and conditions of the workforce.

### **Conclusion**

To conclude, RMT is concerned by the ORR's motivation in placing Network Rail in a permanent position of cost cutting, and not providing any evidence as to implications of this on the safety of the travelling public and the workforce. Furthermore, value for money has not been considered outside of the parameters of what is clearly a failed model of running a railway.

Yours sincerely



Bob Crow  
General Secretary