

PERIODIC REVIEW 2013 : DRAFT DETERMINATION OF NETWORK RAIL'S OUTPUTS AND FUNDING FOR 2014-2019

CONSULTATION RESPONSE FROM VIRGIN RAIL GROUP / WEST COAST TRAINS LTD.

This response should be read in conjunction with our letter dated 15th February, 2013, commenting on the Strategic Business Plan. Many of the issues raised in this letter are unresolved, and the Draft Determination makes little if any reference to them. In particular the content of sections in the letter titled "Fatality Prevention", "Management of FOC on TOC delays", "Improving Anglo Scottish Journey Times" and "Improving Stations" are not reflected in the Draft Determination. The vacuum created by the failure to award a West Coast franchise in 2012, which, regardless of the winner, would have included a package of strategy, initiatives and investment, including "full repair and lease" of stations, has not been referred to or corrected in the Draft Determination, and mention of the West Coast Main Line is a notable theme of absence throughout the document.

The following is a list of comments, written in page/paragraph order, on the draft determination :

- Front cover : Why has the photograph of a Virgin Super Voyager been digitally altered to remove the Virgin branded shield on the nose of the train ?
- 18 The CASL definition doesn't mention that it includes "missed stops". We don't support the assertion that all franchised TOCs must reach 90% PPM by March, 2019, and we are working with ORR to identify a better and more customer centric measure of performance to be regulated, with the support of a revised Track Access Agreement.
- 21/48 ORR should satisfy themselves that the "small" reduction imposed on BTP costs of £26m should not risk the work done by BTP on suicide prevention, which is key to improved performance levels.
- 23/59 "...there will be increased capacity and quicker journey times between our key cities..." : there is none of this on WCML.
- 27/73 We welcome the increase in Schedule 4 and 8 payments, which will much better reflect the current revenue associated with our operation. However the ORR must guard against unintended consequences such as not running more trains for fear of increased schedule 8 payments, as severe overcrowding on long distance services is worse for many passengers than delays.
- 30/86 We think ORR have not explored enough alternatives on this subject. For example why not charge FOCs less if they go faster and use less access capacity ? If the discount is generous this may encourage FOCs to buy new super powerful locomotives for the WCML. We believe that doubling the average speed between Carnforth and Carstairs would halve the capacity taken by freight, allowing additional passenger trains to run, all at negligible extra cost to Network Rail.
- 32/97 This assertion is made without any consideration of the impact of HS2 on the WCML.
60 .."expect Network Rail in CP5 to ensure that, when renewing and enhancing the network, it takes account of potential connections and interfaces with HS2 to ensure that costs in the longer term are minimised". The work on HS2 at Euston is proposed to start in late 2015 and have an immediate impact on capacity, performance and

train fleet deployment, and this will continue for ten years before HS2 has a positive impact on provision of capacity. CP6 is too late for this, and CP5 needs a clear strategy for Euston. Also it should not just be about “cost” – Network Rail should be taking account of “revenue” too, and all WCML renewals and enhancements in CP5 should take account of HS2. Network Rail should also be obliged to minimise the impact of HS2 work on TOCs and their customers from 2015, and funded accordingly. At present Euston is a dismal place, in planning blight and is seeing 7% year on year growth; the fastest passenger volume growth of all the London termini (source : “Estimates of Station Usage 2011/12”, ORR website).

- 66 PDI-P is inadequate for measuring network availability in respect of the base timetable. See also 85/3.87.
- 79/3.52 We don’t support the assertion that all franchised TOCs must reach 90% PPM by March, 2019, and we are working with ORR to identify a better and more customer centric measure of performance to be regulated, with the support of a revised Track Access Agreement.
- 79/3.55 Consideration should be given to replacing CASL reporting with data about trains failing to met Delay/Repay thresholds, in order to make ORR reporting more consistent with DfT led customer redress thresholds. Also “sector” reporting means nothing to TOCs or customers and should be abolished.
- 81/3.61 b) reference to “100 most heavily loaded trains” – does this include cross border services, and what is the definition ?
- 83/3.76 Network Rail and FOCs working on reducing FOC on TOC delay is welcomed, but its not just a planning issue as inferred – its also about unreliable locos, overlength trains and poor out of path management.
- 85/3.87 Refers to “lack of consensus” : this is because all TOCs are different and ORR needs to recognise this. PDIP fails to recognise the WCML South “two track railway” every Sunday morning, for example, which is a material constraint to Sunday volume growth and causes severe overcrowding on Sunday mornings.
- 85/3.91 We disagree that PDIP has delivered this : it is the customer and revenue focus of TOCs that have managed Network Rail’s planning process and achieved progress through the hard work of train planners and their management teams.
- 89/3.106 We disagree that the “Station Stewardship Measure” is effective. There are significant issues with Network Rail’s management of major stations such as Euston, because they take no revenue risk and focus on unregulated income opportunities at the expense of the customer experience. The Station Stewardship Measure takes no account of the quality of the engagement between Network Rail staff and the TOCs’ customers, which is vital to the TOCs’ business. There is no mention of Network Rail’s role in PIDD at these stations or any aspect of customer service. TOC customer satisfaction should play a much greater part in Network Rail’s thinking at major stations, both day to day and when undertaking major projects – the current NPS scores at Birmingham New Street illustrate this issue.
- 105/3.171 The statement about cross border route availability is welcome. We would also like a statement that can be included in the Decision Criteria that can give it some contractual teeth. Please discuss this with the cross border TOCs, not just with Transport Scotland, DfT and Network Rail as stated.

- 143/6.6 Network Rail does use a relatively small amount of electricity when compared with traction but is still a significant consumer (~1% - 1.7%), there are about 2000 non-traction locations. Network Rail has been fitting meters for non-traction usage to cover 90% of consumption by the end of this calendar year (as agreed at the Traction Energy Steering Group). This will leave a large number of believed low usage sites to meter but a small error could be cumulative and significant. Network Rail should be incentivised to complete this, and certainly meter new sites, to help determine overall losses on the railway system although they have claimed it is cost inefficient.
- 143/6.7 Network Rail isn't fully incentivised to reduce losses as seen by recent proposals to fit booster transformers instead of auto-transformer systems on the northern part of the route, this approach was proposed due to capital costs. For Network Rail to be truly incentivised they need to take a share of the losses (losses are AC ~4%, DC ~20%-30%) as the TOCs take both losses in the overhead line and transformers. For example a 50:50 split would amount to tens of millions of pounds.
- 152/7.1 The subject of co-location of TOC controllers and "staff involved in different aspects of operating the railway""will allow better joint decisions" : what is the evidence of this assertion ? This is not our experience – co-location of our controllers with Network Rail led to them becoming disconnected from the rest of the TOC business, with significant impact on decisions within our TOC. So we took action, and relocated our Control team with our TOC team. This is a matter for each TOC to decide on, not one for ORR to have a view on. Each TOC differs – some have a geography that matches Network Rail's operational units, others span numerous Network Rail operational units and need a different approach.
- 205/8.145 a) little evidence on WCML of minimising whole life cost, when considering schedule 8 costs in CP6 and CP5, and we question whether the corporate procurement policy is established to do this.
- 212/8.170 c) procurement – greater use of "standard specifications" – we question whether this reduces whole life cost and is consistent with PPM delivery on routes like WCML. Its not all about "increase competition" – what about providing more reliable components ?
- 214/8.181 Whilst welcoming "systems for safer working", will this also allow reduced possessions, and work done safely while trains are running ?
- 219 Scotland and LNW's statements about electrification appear very unambitious and inconsistent with PPM objectives. As a minimum we would like to see far more frequent inspections of OHLE, and more effective responses to defects found, rather than building up a large backlog of known and unknown defects.
- 229/8.240 The statement about Inter Operability is a short sighted approach in respect of the WCML north of Wigan and relationship to HS2. Surely all renewals on this section should be compliant with European loading gauge, such that from 2033 it will be possible to operate HS2 European gauge "off the shelf" trains to Scotland after two decades of incremental gauge enhancement through renewal ?
- 230/8.8 We would not agree that "Contract and Supply Management" is "excellent" as shown, in respect of whole life cost and the procurement of equipment for WCML

- over the last ten years. Whilst Network Rail are addressing this matter with some urgency at present, we have yet to see this manifest itself in results.
- 241/8.289 “10-15% renewals savings” is suggested as being achievable, but at what cost to PPM, and what does “risk based renewal” mean for performance on the WCML ?
- 242/8.293 The benefits to the wider industry need to be explained further.
- 243/8.294 More reliable components should also feature here as an opportunity, and the cost of unreliability should be better understood on a route by route basis against the CP5 Schedule 8 regime.
- 242/8.295 In respect of the cost of better efficiency is reduced/increased schedule 8 payments included in this statement, and are CP4 or CP5 schedule 8 rates used ?
- 255/8.340 “Network Rail has a good understanding of track service lives” – this is not our experience on the WCML, with numerous TSRs, ESRs, bumps etc.. There is too much reliance on national standards, and not enough acknowledgement of local conditions. However an improvement in the management of hot weather ESRs and bumps on WCML has been noted this summer: it has been excellent compared to previous summers.
- 276/8.425 We note the reference to the Anglia transfer, and would ask about the West Coast franchise, as when the SBP was written the station maintenance was to be transferred to the franchise, then subsequently abandoned. As stated in our letter of 15th February, 2013, this remains an issue.
- 279/8.436 Is ORR sure the “sound approach” includes CP5 Schedule 8 payments on WCML ?
- 326/9.53 We welcome the phrase “this should not exclude working with other TOCs and FOCs operating in Scotland”.
- 342/9.124 We note the removal of Carstairs remodelling. This scheme was included in the industry-agreed Strategic Business Plan and ORR itself acknowledges in the same paragraph that the scheme would “significantly reduce long distance journey times”. This deletion is explained on the basis that the scheme was not explicitly included in the Scottish Ministers’ HLOS. However, this element of the determination fails to acknowledge the Scottish Ministers’ stated objective to secure faster cross-border rail journey times. This objective, which the Ministers saw as key to improving Scotland’s connectivity and to achieving modal shift from air, was first expressed in the 2006 publication *Scotland’s Railways*: paragraph of that document 8.8 set out the medium-term objective of fastest London-Edinburgh and London-Glasgow journey times of 4 hours (the first of which has now been achieved) and Scotland-Manchester journey times of 3 hours. The aspiration for improved journey times (including those of cross-border services) is also set out in paras 3.3-4 of the current Scottish HLOS. While we are encouraged by the draft determination’s reference to ongoing discussions between Transport Scotland, DfT, Network Rail and ORR on the further development of the Carstairs scheme, this of itself does not provide Virgin Rail Group and other operators with sufficient assurance to plan their future business, and appears to exclude us from the discussions. As ORR will be aware, separate discussions are also taking place between Virgin and Network Rail about other specific enhancements, but it has been our reasonable

expectation from dialogue within the industry that the Carstairs scheme would form part of the baseline, both because of the strategic importance of this scheme (as acknowledged in para 9.124 of your draft determination) but also because its outputs would provide benefits to all users of the route. Virgin Rail Group is also disappointed that the draft determination's approach to the Carstairs project is contrary to undertakings that were given to industry parties and to Scottish stakeholders when the WCML upgrade was de-scoped as a consequence of the reviews undertaken by the Strategic Rail Authority and the ORR in 2003. Deferral of some improvements was accepted, albeit reluctantly, on the clear understanding that, since assets on the northern half of the WCML were then not life-expired, early replacement would be less cost-effective than delivering associated enhancements when track and signalling fell due for renewal. These undertakings were set out in the SRA's *West Coast Main Line Strategy* document in 2003, including a commitment to full bi-directional signalling north of Carlisle as part of "re-signalling in eight to ten years' time" (p 39), and capacity enhancements (including longer freight loops and higher crossover and loop entry and exits speeds) during re-signalling between 2010 and 2013 (pp 78-80). This commitment to further enhancements after the formal termination date of the WCML upgrade project in 2008 was maintained by the DfT following the SRA's abolition. The DfT's *West Coast Main Line Progress report* (2006) stated at para 16.6: "At a number of locations on the route, it should be possible to increase line speeds further, **when renewals take place beyond 2008.**" [Emphasis added.] The 2006 document noted in particular that line speeds were currently restricted at some locations by signal sighting and junction protection. Similar statements of intent to undertake enhancements in conjunction with renewals can be found in successive Network Rail Route and Strategic plans, and were embodied in the WCML RUS, which your Office approved as recently as 2011. That document referred on page 5 to "numerous schemes over the route that are being undertaken to improve junction capacity and journey time improvements (via linespeed increases) as part of the normal development processes". Carstairs obviously falls within this description. This clear audit trail of governmental and Network Rail commitments to further enhancement of the WCML as renewals fell due has been the basis on which Virgin Rail Group has engaged with its stakeholders in Scotland and northern England. These stakeholders have, understandably, continued to press the franchisee to improve journey times in line with original expectations, and are certainly not prepared to accept the status quo until HS2 is eventually delivered. This shared understanding that it was settled policy that deferred enhancements of the northern half of the WCML would be delivered as part of renewals has also underlain the assumptions which have informed Virgin's input to the industry's planning and delivery oversight processes since 2008. While we have been concerned at the slippage of certain schemes which (as the 2003 *Strategy* clearly indicated) were anticipated to have been delivered within the current

Control Period, and frustrated by other missed opportunities (such as Network Rail's renewal on a like-for-like basis of the Quintinshill down loop), Virgin Rail Group (and its passengers) would find it completely unacceptable for the ORR to overturn the principles upon which the post-2008 strategy for the WCML has been built, by failing to protect the enhancement elements of the Carstairs scheme. We trust therefore that the position will be modified when the final Determination is made, and that the Carstairs project will be fully funded. There is in addition a potential read-across from this particular instance to the issue which the draft determination discusses in Chapter 16: the imbalance in the allocation of Fixed Track Access Charges for cross-border operators between England and Scotland. While recognising that this is ultimately a matter for the two governments to resolve, Virgin Rail Group is concerned that, in the absence of a cost-reflective methodology for apportioning cross-border FTACs, the prioritisation and behaviours both of funders and of Network Rail may be influenced by the lack of direct congruence between income and expenditure on cross-border routes, creating a sub-optimal situation for the industry and its end users alike. We would therefore hope that ORR will reflect further on this issue in moving towards its final Determination and be prepared to make firmer recommendations to improve the position.

- 359/11.13 This section titled "Health & Safety in CP4" doesn't mention suicides on the railway, which we think it should.
- 591/19.2 We are not supportive of full-cost risk-sharing between NR and TOCs, through Route-based Efficiency Benefit Sharing (REBS), primarily because TOCs do not have the necessary control of those risks and costs and hence are unlikely to enter into voluntary arrangements. This is an uncontrollable element of the proposed settlement that has yet to be demonstrated by ORR to provide an effective incentive for either party that will drive further industry efficiencies. We believe we should focus on managing our directly controlled costs, and growing our revenue, and the latter in particular is the way we can best influence the macro economics of the industry in a positive manner.
- 650/20.130 We note the comments about Schedule 8 caps for FOCs, but this does not appear to give FOCs enough incentive as their locos break down on the WCML very regularly, and still feature many "single point failure" opportunities.
- 693/23.24 d) suggests ORR will intervene on TOC on self performance; is this correct? The DfT does this currently, raising the possibility of "double jeopardy".
- 807 We note that one of ORR's duties is "to take into account the need to protect all persons from danger arising from the operation of railways". However the word "suicide" doesn't appear once in the Draft Determination, even though over 250 people commit suicide on the railway in the UK each year, with significant distress caused to all involved, significant service disruption and costs to the industry of millions of pounds annually. The Final Determination should make clear ORR's support for industry initiatives to reduce suicide on the railway, and ensure that Network Rail and their partners in this are sufficiently funded and

incentivised to do this, with appropriate reporting, monitoring and investigation processes in place.

Chris Gibb
Chief Operating Officer
Virgin Rail Group
4th September, 2013