Greater Anglia response to PR13 consultation on incentives

Q3.1: Do you agree that in PR13 we should focus on incentivising delivery of outcomes that customers, wider society and funders value?

We agree the focus on incentivising delivery of outcomes valued by customers, wider society and funders is the correct emphasis for PR13. Particularly in respect to customer satisfaction, economic growth, connectivity and environmental sustainability.

Q3.2: Do you agree with our assessment of the outcomes that customers and society value?

Overall the ORR's assessment looks sensible but we believe a value for money metric should also be included.

Q3.3: How do you see the trade-offs between and within the interests of customers, funders and society? How do you see the trade-offs between current and future customers, funders and society?

When there is monopoly supplier in a market and where there is a high level of Government intervention finding a balance is always likely to be an issue. The RUS process we believe has gone some way towards assisting decision making for the longer term. However we believe the main issue is that Network Rail's cost base makes these interventions more expensive than they need to be. This can distort this process.

Trade-offs are generally well described in the review however we believe that consideration of some significant elements of trade-offs are missing. Specifically any changes to EU legislation which is likely to have the biggest impact on Network Rail's cost base. Short term franchises also have a large impact on future customers.

Q3.4: To what extent do you think we should measure and monitor the delivery of those outcomes and outputs we incentivise? What metrics should we use? To what extent is it practical and desirable to monitor delivery of outcomes at the local level?

We believe it is better for the industry to evolve and to enforce more effectively existing incentives rather than looking at implementing a suite of all new measures. Schedule 8 tends to be a good proxy for the effect on customers however Network Rail does not always react to it as effectively as it could. Network Rail's key outcome should be the actual delivery of the product i.e. the timetable which can be measured either by PPM score or Right Time. Both metrics, to a satisfactory degree, measure the customers' experience. Network Rail can be overly focused on delay minutes and this is just an output that supports the delivery of the end product to the customer. We are aware that

Greater Anglia response to PR13 consultation on incentives

Right Time is important to many customers as shown by the research from Passenger Focus.

The other element that needs to be considered is the effect of continuous long term engineering works. For example the experience of the customers on the GEML to continual weekend and midweek nights engineering works over several years and a gradual drift to alternative transport is a very real concern however as a TOC we appear powerless to communicate this contractually to Network Rail or even create an influence within Network Rail to address the issue. We believe this is an issue which would be best dealt with at a local level.

Some of the metrics could be simple - such as schemes delivered - but there is also a need to look at the costs of delivery of projects and day to day operation both at national and local level.

A metric giving more meaningful insight into capacity would be helpful i.e. something which looks at how full the network or route is against its performance.

Network Rail is monitored at a macro level by ORR however would it be better to monitor or Network Rail's delivery of outputs and performance against incentives at a local or route level to ensure high level outcomes are delivered nationally rather than one route suffering whilst others deliver.

Q3.5: What do you see as the key enablers for Network Rail's successful delivery of outcomes in CP5? How should we best measure Network Rail's performance against these enablers? How should we best incentivise these?

We see a key enabler as being longer term franchises, facilitating development of the infrastructure rather than maintaining steady state.

Schedule 8 is a good mechanism as it monitors detailed performance information for a particular relevant group of services at a local level and at the same time being a template regime it provides for good comparison with national performance. It also demonstrates a link between performance and passenger revenue.

Q3.6: What do you see as the key features of the transmission mechanism? How do Network Rail's customers respond to changes in Network Rail's behaviour and how does this translate into the experience of end-customers and society? How should we take this into account in the design and implementation of our incentives?

Network Rail can react perversely to incentives and we believe therefore the incentives need to be much more about delivering the end product such as PPM/RT.

Schedule 8 and Schedule 4 are good key measures however Network Rail does not react as well as it should to them because of cultural issues in the organisation. Those managing the outcome of Schedule 4 and Schedule 8 regimes are for the most part administrative staff managing the systems side of the regimes and have little or no involvement or understanding either of planned engineering works or the delivery of infrastructure projects neither do they have any involvement in timetable planning or performance delivery. This results in a structural disconnect between Network Rail at a high level which generally does understand the regimes and practitioners at a route level whose behaviour therefore tends not to be greatly influenced by the regimes.

Broadly speaking the mechanisms work but there is a need to evolve Network Rail's understanding of the measures. We see this starting to happen on Anglia following devolution, but there is much more improvement needed from Network Rail before we will see this impacting on end-customers and society.

Q3.7: How do you think industry reform would affect the transmission mechanism? How do you think changes to franchise agreements would affect the transmission mechanism?

We believe this would increase risk to train operators, potentially outweighing some benefits. Train operators would need to put even greater effort into management of Network Rail if ORR moves towards lighter touch regulation. Longer franchises may potentially offset this but this is not known until it becomes clearer what the new franchise model will look like.

Q4.1: What are your views on our proposed principles for efficiency sharing arrangements between Network Rail and train operators? To what extent to do you think they will improve the incentives on train operators to work with Network Rail to reduce its costs?

Efficiency sharing should incentivise train operators and Network Rail to focus better on particular issues. However given the existing difficulties train operators have in getting Network Rail to focus on the current incentives it is hard to see how this will bring benefits. Given Network Rail's corporate structure it is hard to see how a train operator would be able have more than a very limited influence Network Rail's cost base.

Q4.2: What are your views on our proposed design of a route-based efficiency sharing mechanism, as described in this chapter and in Annex B? To what extent to do you think they will improve the incentives on train operators to work with Network Rail to reduce its costs?

We think route based incentives will help reveal some cost savings but this is not easy to assess until well into the process. Train operators tend to be more dynamic and efficient organisations and are used to having to react and alter processes to respond to business demands anyway. However Network Rail is clearly not effective at doing so and this might pose some significant additional risks which a train operator would have to absorb.

Q4.3: What are your views on our assessment of the role of bespoke arrangements? In what circumstances do you think bespoke arrangements are likely? What advantages and disadvantages might they bring? How should we best assess them? What are your views on the scope for excluding some of Network Rail's costs from the default efficiency sharing mechanism?

Bespoke arrangements are fine for a single user route such as Anglia however not all train operators on a multi user route would be incentivised to the same degree, if at all.

Q4:4 What are your views on our assessment of potential impacts of a route-based efficiency sharing mechanism, as described in this chapter and in Annex B?

In principle this looks fine however should the benefits be higher given the additional risk it might import to train operators?

Q4.5: What are your views on our preliminary proposal for exposing passenger and freight operators to changes in Network Rail's fixed costs in subsequent periodic reviews?

This assumes that train and freight operators are able to influence Network Rail's fixed costs, which is questionable, and in addition we believe there is still a lack of clarity in respect of the fixed costs. In respect of train operators which are funded by government the addition of this risk would simply shift costs away from Network Rail and increase the cost of franchises to government.

Q5.1: Do you think that the current possessions and performance regime broadly help to align incentives between operators and Network Rail in the best interest of customers, funders and society? If not, why not?

We do believe the current possessions and performance regimes help to align incentives between operators and Network Rail and therefore in the best interests of customers, funders and society. Any perceived disincentives are addressed by other incentives such as PPM, performance regimes in operators' franchise agreements and reputation amongst its customers. Operators are driven by, and are able to respond dynamically, to all of these incentives however we do not believe that Network Rail responds effectively as an organisation to these incentives and this is particularly manifest in its behaviour with regard to the Schedule 4 possessions regime. On Anglia route, there is an almost constant review of and amendments to booked possessions after publication of the CPPP. For example in 2011 Network Rail alterations meant that 20 weeks (38% of the year) which had already been planned and bid had to be amended and re-bid. However we are hopeful that with Schedule 4 and Schedule 8 budgets shortly becoming the responsibility of the routes, Network Rail's response to these regimes will improve significantly.

We disagree with ORR's assertion at 5.48 that the purpose of Schedules 4 and 8 is to align financial incentives only and that train operators are not exposed to the wider impact of disruption on passengers and society as a whole. Exposure to such impacts is truly inherent in a train operator's business therefore the purpose of Schedules 4 and 8 is to pass on some of the impact to Network Rail: an organisation which is otherwise shielded from greater part of that impact. Addressing this at a contractual level can only be achieved by a liquidated sums regime and this is where the limitation arises, not by any limitation within Schedules 4 and 8 themselves.

Q 5.2: Do you think it is appropriate to retain Schedules 4 and 8 as liquidated sums compensation regimes?

We believe it is appropriate to retain Schedules 4 and 8. We believe these regimes help to align business incentives and after many years in existence are understood by the industry. We do not believe that either regime overcompensates operators for disruption, although there are occasions when this may occur there are also instances where we believe operators are undercompensated for disruption to services so we welcome the ORR's proposal to review and update the metrics of the regimes.

Q5.3: Do you think it would benefit customers, funders and society and encourage greater co-operation if Schedule 8 compensation rates from Network Rail to train operators did not reflect the full impact of possessions on revenue and costs? We also welcome any further views on this issue in relation to Schedule 4.

No, we do not think it would be of any benefit if compensation rates did not reflect the full impact of possessions on revenue and costs. Network Rail does not currently respond efficiently to the current signals within Schedule 4 as evidenced by its behaviour in relation to persistently amending and cancelling possessions. Notification Factors are mentioned in the consultation and we believe that these need to be reviewed, particularly with a view to late notice changes perhaps being set at a more punitive level, as this is where an operator and its customers experience the most significant inconvenience, cost, impact on performance and loss of reputation. Network Rail's engineering projects and maintenance organisations over many years consistently appear ignorant of the impact which late notice changes to Restrictions of Use have on Network Rail's own costs as well as the impact on an operator's business.

With regard to Schedule 8, we believe this is already a liquidated sums regime in so far as it takes account of future loss of revenue related to average performance levels over a period of time. It therefore does not currently compensate for 100% of actual costs/loss of revenue pertaining to a particular instance of disruption.

Q5.4: Do you think existing incentives are as effective as they can be in ensuring that Network Rail and train operators perform at a level that is economically and socially optimal and whether they sufficiently drive Network Rail behaviour? In particular we invite views on whether we should place further incentives on Network Rail to ensure it fully takes into consideration the impact of service disruption on passengers i.e. disruption above that already reflected in Schedules 4 and 8 compensation payments for loss of fare revenue and how we could go about doing this.

We believe there are currently lots of existing incentives (Schedule 4, Schedule 8, PPM, JPIP, JNAP, Franchise agreement, reputational, profitability/owning group accountability) which variously drive train operators to behave in a socially and economically optimal manner. Network Rail is subject to most of the same incentives. If an organisation does not respond effectively to the contractual regimes to which it is a party and the incentives placed upon it then it is preferable to understand why it does not respond adequately or as envisaged to its incentives before attempting to change established mechanisms or impose further incentives in an effort to address this. Further incentives on Network Rail would seem to simply impose additional costs and administrative burden upon the industry in terms of managing additional incentive regimes. ORR should not lose sight of the fact that it may be more effective to have an imperfect incentive framework that is well understood by the industry, rather than striving for an economically perfect, but complex regime.

Q5.5: Do you envisage any barriers to modify or replacing the Schedule 4 and 8 regimes in case where both a train operator and Network Rail wish to? What do you see as the advantages and disadvantages of bespoke approaches? Do you agree with our proposal regarding the circumstances when we will approve bespoke Schedule 4 and 8 arrangements?

We believe there is no reason why operators and Network Rail shouldn't be able to agree bespoke regimes if they so wish.

However Anglia route has experience of operating a bespoke performance regime over a number of years. Operating a bespoke performance regime on single user routes has proved complicated and no significant advantage was gained by doing so either by the operator, the end customer or Network Rail over the incentives already offered by the template Schedule 8 regime and it was ultimately abandoned in favour of Schedule 8. It is therefore very difficult for us to envisage exactly what advantage, if any, ORR perceives will be gained from operating bespoke regimes over multi-user routes.

Q6.1: In what circumstances do you think bespoke charging arrangements are likely to occur? What advantages and disadvantages could such arrangements have? How might they work for or against the alignment of incentives?

We believe operators should have the flexibility to agree bespoke charging arrangements however it would be preferable to make Network Rail respond more effectively to the existing arrangements.

Q6.2: What protection do you think might be needed for third parties not included in the scope of a bespoke arrangement?

Third parties should not be put at risk from bespoke arrangements over and above their existing contractual liabilities.

Q6.3 Do you agree that it would be helpful for us to set out a set of principles on the basis of which we would decide whether to approve bespoke arrangements? Do you have any views on what those principles should be?

They must be equitable and fair and subject to particular scrutiny by ORR to ensure third parties are not disadvantaged or disincentivised by bespoke arrangements.

Q6.4 How do you think we should treat bespoke charging arrangements that might span Network Rail control periods or change within control periods?

Track access contracts and franchise agreements currently span control periods and change within control periods so we do not see these charging arrangements would need to be treated any differently.

Q7.1: What are your views, additional to those set out in your response to our May consultation, on our treatment of the following options:
(a) The scope of our proposed review of the volume incentive, including disaggregation by Network Rail route and consideration of a down side as well as an upside?

Yes this ought to be both ways.

(b) That we continue to support the rationale for the capacity charge, and will support Network Rail in its work to revisit and recalibrate the charge for PR13?

The capacity charge is complicated and as an incentive does not appear have been particularly effective, becoming simply a tax on running trains. We believe that Schedule 8 and other performance incentive address the same issue anyway: usually performance deteriorates as less capacity is available and this will ultimately be reflected in outputs from Schedule 8 and a drop off in PPM results.

(c) That we should establish the extent to which infrastructure capacity is under-utilised before proceeding to develop one or more indicator by which to monitor capacity utilisation?

Yes, we believe this is fundamental to the whole PR13 in assessing the effectiveness of existing incentives.

Q7.2: What are your views, additional to those already expressed in your response to our May consultation, on the policy we are considering further to levy a charge to incentivise better use of capacity?

Train operators have a limited ability to respond to use of capacity as its activities are governed by its service level commitment.

Q8.1: Do you agree with the criteria that we have applied in assessing different options to Network Rail's cost of capital and our approach to its financial structure?

No response.

Q8.2 Do you agree that we should use a cost of capital for Network Rail that reflects the risks faced by the business, even though this may not reflect the company's actual financing costs?

No response.

Q8.3: How do you think we should deal with the surplus cash that results from such an approach?

No response.

Q8.4: What advantages and disadvantages do you see in our regulating Network Rail in a way that preserves the options for changes to the company's financial structure?

No response.

Q8.5: How should we strike the right balance between the interests of current customers and funders and future customers and funders?

No response.

Q9.1: How do the incentive properties of our different treatments of different classes of expenditure affect operating decisions on the ground, e.g. is it the potential financial gain or loss that motivates actions or is are decisions more based on other factors such as relative complexity, cultural factors (e.g. tradition or professionalism) or the nature of Network Rail's financing and governance arrangements?

We believe from our own experience that the top level of Network Rail understands the incentives it needs to respond to however this does not appear to transmit well throughout its business to the day to day maintenance and planning activities who do not have a grasp on high level outcomes. Network Rail's response varies so greatly throughout the organisation that it has the effect of diluting the incentive. We are hopeful Network Rail's focus will be improved by devolution of its budget to the Anglia routes.

Q9.2: Are the incentives on Network Rail affected by the different ways we may assess support, operations and maintenance costs, compared to renewals and enhancements expenditure? In particular, we may use a base year for support costs that is rolled forward by an efficiency assumption, whereas for renewals we will probably not roll forward a base year but will take a view on the likely level of expenditure in each year on a pre-efficient basis and then apply an efficiency assumption.

No response.

Q9.3: Do you expect Network Rail's work on whole-life costs to change its decision-making, and in what way?

We would hope any business enterprise would respond to such work in its decision making and especially so in Network Rail's case where it is in the unique position of being able to support the long term development of the industry.

Q9.4: Is there any evidence of 'capex bias' at Network Rail? To what extent is this undesirable?

No response.

Greater Anglia response to PR13 consultation on incentives

Q9.5: Should we seek to equalise the incentives for different types of income and expenditure? How best might we do this?

No response.

Q10.1: Do you agree with our overall proposed approach to incentivising innovation? If not, what do you propose we do instead?

Yes we support the ORR's approach to incentivising innovation but barriers to innovation are equally to do with the short term approach to franchising.

Q10.2: What merit do you think there would be an innovation fund? How should such a fund work? How would we guard against 'crowding out' and ensure the fund did not displace existing expenditure?

There might be some merit in doing this provided existing expenditure is safeguarded.

Q10.3: What merit do you think there would be in an innovation prize? How should such a prize work? Who should be eligible to enter? What sort of prize would best stimulate genuine innovation?

We do not see that there would be great merit in doing this unless the reward was sufficiently large. There are currently recognised industry awards which have categories relating to innovation.

Q10.4: In relation to the use of output KPIs, what KPIs do you think we should target and why? Should we monitor them only or should they have some incentive attached to them and if so what?

No response.

Q10.5: Do you think that KPIs should be introduced for companies other than Network Rail to monitor innovation across the wider industry?

No, the fundamental issue is that Network Rail is a monopoly supplier which needs careful monitoring and regulation.

Q10.6 Beyond any comments that you may have made to us in response to our May consultation, do you have any comments on our overall approach to environmental incentives? Specifically, do you think we should introduce other environmental incentives beyond those that we are proposing? Do you think we should go further in encouraging the rail industry to improve its environmental performance even if this resulted in a shift to other modes?

Greater Anglia response to PR13 consultation on incentives

In our dealings it is apparent that Network Rail does not prioritise energy use. Environmental concerns are allied with efficient performance of the network. Delays, however caused, entail use of additional energy and Network Rail can directly influence this. For instance moving the industry away from signalling systems that use approach control and therefore cause trains to consume additional energy now need to be considered. Anglia has had some success in this area by changing the linespeed to remove approach control at Chippenham Junction and though this stemmed from a local manger's enthusiasm there is no reason why this approach cannot be considered further. Another issue is the lack of a smooth profile for trains e.g. the East Suffolk line which has variable speeds of between 15mph to 55mph in both directions and is therefore a very inefficient operation as far as energy consumption is concerned. We believe there should be a means to incentivise timetabling with a view to conserving energy. The industry has an inherently green product however the industry's thinking does not appear particularly well attuned to this.

Q10. 7 We are keen for the industry to propose methodologies for monitoring emissions and producing improved whole-life, whole-industry business cases. What role do you think the ORR should play in this process?

Yes this should be part of any scheme as the industry uses 1% of the electricity consumed in the UK.