

## ORR Schedule 8 First Industry Workshop

London  
1 Kemble Street

25<sup>th</sup> July 2011

1. The purpose of this event was for the Office of Rail Regulation (ORR) to explain the parts of the first consultation document on PR13 that relate to Schedule 8 and have an open discussion on the issues to help inform stakeholders' views and encourage formal response to the consultation, the deadline for which was 2<sup>nd</sup> September 2011.

### Morning Session – The Schedule 8 passenger regime

2. The session started with opening remarks from Paul McMahon, Deputy Director, Railway Markets and Economics, ORR, who provided some context to help aid discussion, referring to the first consultation document, the extent we made changes to Schedule 8 during PR08 and industry reform.

3. This was followed by a presentation from Paul Hadley, Head of Operations at ORR, on the Schedule 8 passenger operator performance regime and a summary of the key issues we are consulting on.

- [ORR passenger regime presentation](#)

4. Stephen Draper, Performance Analysis Manager, Network Rail and Alec McTavish, Director, Policy and Operations, Association of Train Operating Companies (ATOC) then gave presentations on their views of the Schedule 8 performance regime.

- [Network Rail presentation](#)
- [ATOC presentation](#)

5. The presentations were followed by a discussion with the workshop attendees. Key points that were raised by members of the audience are as follows.

### Incentives for TOCs to improve their performance

6. The group generally considered other incentives such as delay repay and the threat to lose their franchises greater incentives for TOCs to perform well than Schedule 8.

### How the Schedule 8 compensation regime fits with other incentives to improve performance

7. A participant expressed the view that Network Rail and TOCs can meet Joint Performance Improvement Plan (JPIP) actions, only for the TOC to find

payments to Network Rail increase as a result. There needs to be a greater consistency between such initiatives like JPIP and Schedule 8.

8. It was pointed out that Network Rail's High Level Output Specification (HLOS) is funded on the basis of improved performance in Public Performance Measure (PPM) and reductions in significant lateness, whereas Schedule 8 payments relate to average lateness, which means they do not always quite align.

### **Extent Schedule 8 fully compensates TOCs for poor NR performance**

9. The group were asked if TOCs mind if Network Rail does not perform well, given that theoretically they get fully compensated for the loss in revenue arising from delays caused by Network Rail.

10. The general view was that TOCs, particularly long distance operators, are not pleased when Network Rail performs poorly as it prevents them growing their businesses, although an example was given in relation to the 'gauge corner cracking' crisis where some London and South East TOCs received a lot of income from Schedule 8 but their businesses remained ok.

11. It was felt that with longer franchises it will become much more important for TOCs to grow their businesses, meaning good performance from Network Rail will be more important.

12. A participant expressed the view that Network Rail needs more incentive to perform well on routes that might not be important to it in terms of the size of Schedule 8 payments but might be important to an individual TOC.

### **Bespoke regimes**

13. There was concern amongst the group that bespoke performance regimes between TOCs and Network Rail could lead to Network Rail putting too much focus on routes where the incentives are stronger and not enough on other routes.

14. It was highlighted that if TOCs become subjected to changes to the performance regime(s) during franchises and are not confident that the performance regime(s) are fair and avoid perverse incentives, it could result in TOCs adding a premium to cover this risk, when bidding for franchises.

15. However, a participant expressed that an advantage of bespoke regimes is that it could result in Network Rail focussing on something other than minutes delay if so desired, for example, shorter journey times, more consistent performance.

### **Incentives on Network Rail to improve performance at a local level**

16. The view was expressed that while local Network Rail route directors have some accountability for Schedule 8 payments, this should increase.

17. In general, the group were of the opinion that there are currently situations where Network Rail is performing poorly on a section of route and making high Schedule 8 payments but local management do not have the incentives or power to take the steps necessary to improve performance. Incentives and responsibilities are needed at the right level of the organisation.

18. A participant felt that it is also the case that local Network Rail managers' understanding of Schedule 8 is often very low and consequently they do not realise the benefits of making relatively cheap investments to improve performance and therefore reduce Schedule 8 payments.

19. It was also highlighted that there can be instances where the size of Schedule 8 payments result in engineers advising managers that it's not worth spending money on something, without them looking at the bigger picture, e.g. sustained long-term performance.

20. Network Rail's responses to these comments were that it believed that there is a high degree of local accountability at Network Rail and that while its internal management structure is focussed more on meeting targets than the Schedule 8 performance regime, the impact on Schedule 8 payments is important when building business cases.

### **The aim of Schedule 8**

21. A participant highlighted the need for us to be clear on the aims of Schedule 8 before we work through the detail.

22. It was generally felt that Schedule 8 is useful as a compensation regime as it reduces the need for parties to make claims against one another on an ad hoc basis, but that it does not always provide a strong incentive for Network Rail to improve performance.

23. However, a participant stressed that any incentive mechanism should be designed so Network Rail are only incentivised to spend £x if it delivers at least £x worth of benefits.

### **Side effects of Schedule 8**

24. A participant was concerned that disputes around Schedule 8 payments have resulted in an adversary culture, with effort being wrongly placed on defending money flows, rather than focussing on long term performance.

25. It was suggested that we could look into whether the idea that every minute counts is the right one and what the right numbers/ messages are to incentivise the right behaviour are.

26. A participant suggested that simplifying the contractual relationships between parties would lead to less gaming and fewer disputes.

### **Schedule 8 in an environment where performance is static**

27. The group were asked for their views on the role of Schedule 8 in a static environment, without improvement trajectories, where it had been decided the performance is already good enough.

28. There were mixed views on whether we would reach a situation where Network Rail should stop improving but it was agreed that there is a trade-off between performance and other outputs. For example, shorter journey times might eventually be preferred by some to further improvements in performance.

29. One participant suggested Schedule 8's focus on minutes of delay is not necessarily the right one and that more consistent performance and/ or shorter journey times might be preferable to some TOCs.

## **Afternoon Session – The Schedule 8 freight regime**

30. This session started with a presentation from Paul Hadley, Head of Operations, ORR, on the Schedule 8 freight operator performance regime and a summary of the key issues we are consulting on.

- [ORR freight regime presentation](#)

31. This was followed by a discussion with the workshop attendees. Key points that were raised by members of the audience are as follows.

### **Administering and understanding the Schedule 8 freight regime**

32. The group were of the view that the Schedule 8 freight regime is easy to administer and understand and that it should be kept simple, with no radical changes but a review of the detail.

### **Basis of Schedule 8 payments**

33. The group felt that delay minutes should continue to be used as the measure to base compensation payments as it is easy to understand and communicate to the front line.

### **Incentive on FOCs to improve performance**

34. A participant stated that they view it as a compensation regime rather than incentive regime and that there are huge incentives from customers to perform well.

### **Impact of changes to Schedule 8 passenger regime on Freight Operating Companies (FOCs)**

35. A participant asked what the impact of changes to the Schedule 8 passenger regime would be on FOCs

36. ORR responded by stating that it's reasonably likely that we will review the Marginal Revenue Effects (MREs) for the passenger regime which could have an impact of the cost of a delay minute to FOCs.

37. Concern was expressed the view that this could impact on FOC costs and it was requested that this be completed earlier in the PR13 process (i.e. before 2014) to ensure a certain level of certainty for FOCs.

### **Size of payment rates to FOCs**

38. ORR asked if FOCs felt the compensation payments for delayed freight trains are fair, given that they are lower than payments to TOCs

39. The group agreed that the rates seemed broadly fair but it was highlighted that for some traffic the cancellation payment rate is too low in some areas and too high in others.

### **Kinked payment line**

40. A participant expressed the view that the payment rate not being a straight line (bonus payments to Network Rail for over-performance are paid at half the rate that Network Rail compensates for under-performance) makes it more complex to work out. In particular, it removes the possibility of moving disputes over time periods.

41. Network Rail clarified that they do sometimes sign off interim payments then deal with disputes later.

### **Incentives on Network Rail to improve performance at a local level**

42. The group were of the view that front line staff know the cost of not taking actions to improve performance but do not always know how to rectify the performance issues.

43. The group were of the view that NR local managers tend to focus on average delay minutes, when to a freight operator some delays are more important than others. Examples given of when a delay can have a severe impact were when a boat is missed or when a train arrives at a terminal but is told it needs to leave at the original time, not allowing long enough to fully load the train.

44. The group felt that Network Rail might need further incentives to improve their performance.

### **Close of workshop**

45. At the close of the workshop Gian Carlo Scarsi, Head of Regulatory Economics, ORR, thanked all attendees and encouraged written responses to the May 2011 consultation document by 2 September.