



Freight Customer Panel

19th May 2016

Summary

The freight customer panel is part of ORR's wider commitment to engage directly with freight customers. The panel provides a structured forum for engagement and helps to ensure that our policies and regulatory decisions take into account the commercial environment that freight customers work within. The panel members will assist us by contributing views, expressing opinions and advising us on freight customer interests or issues.

This note summaries the main themes and issues that were discussed at the third meeting of the Freight Customer Panel. The meeting was chaired by John Larkinson, Director of Railway Markets and Economics at ORR.

Themes

The panel's discussion focused on:

1. Hendy and Shaw reviews and the review of ORR
2. Freight customer access contracts and access and management regulations
3. PR18 first consultation
4. Asset sales
5. Update on Highways Monitor activities

Issues discussed

Item 1 – Hendy and Shaw reviews and the review of ORR

1. John Larkinson discussed the review of ORR had not led to any fundamental changes in ORR's role. Areas that the review was currently still looking at:

- New arrangements for enhancements – DfT and NR have signed a memorandum of understanding defining clear roles but the roles of DfT and ORR are still to be finalised.
 - Rationalisation of ORR’s statutory duties – ORR has 24 statutory duties. If they are amended they would need to be amended by legislation.
 - Modernising the regulatory toolkit – how to regulate a public sector body
 - Closer working with Transport Focus – ORR are currently agreeing a joint work programme with TF.
 - Filling gaps in ORR Board experience – Currently recruiting three non-executive directors.
 - Clearer working arrangements with DfT – A memorandum of understanding will be signed with DfT.
2. John discussed the Shaw review and specifically the route focus with the possibility of a route for the North as well as the idea of a virtual freight route. The panel spoke about the principle concern for freight being that
- Freight loses out in a route based structure
 - Has the virtual freight director the same authority as a route MD?
3. John went on to talk about the need to have a strengthened system operator function the supports the routes. John also discussed various other functions that do not fit neatly within the routes or the system operator.
4. John discussed the Hendy review and that ORR did not take part in the Hendy prioritisation process but he stated that it will be ORR’s role to help explain the implications of the Hendy review e.g. the financial implications for the next control period.

Item 2 – Freight customer access contracts and the ‘new’ access and management regulations

5. Bill Hammill spoke about changes to ORR’s model freight track access contracts, he discussed:
- The background, which included RDG’s CRRWG and the freight sub-group that had been formed alongside a passenger group to explore the lesser specification of access rights to create greater timetabling flexibilities for Network Rail; the revised freight model track access contract schedules 4 and 5 and Rights Table that was consulted on; and the republished freight/freight customer model track access contracts; and

- The changes to the freight model contract schedule 5s included flexible window sizes, which may be changed in future under the contract to vary them. ORR's Freight General Approval is also under review given the changes; and
 - The benefits which included better timetabling solutions through better capacity allocation/utilisation and that a large proportion of new TOC & FOC TACs commence PCD2016; and
 - For all holders of freight access contracts, that the old format Schedule 5 will still apply for TTVRs up to PCD 2016.
6. Bill Hammill briefly discussed the regulations, specifically that:
- ORR will publish guidance in modular format setting out ORR's interpretation of the guidance along with separate guidance on competition;
 - ORR wrote to service facility operators on 16 December 2015 identifying certain new access issues which the regulations were proposing and that Network Rail has already issued a Service Provider Information Form for completion; and
7. Annette Egginton briefly spoke about competition and that ORR has power to give directions where they identify discrimination against applicants for access to the rail network, market distortion or undesirable developments in relation to the competitive situation in the rail services markets.

Item 3 – PR18 first consultation

8. Chris Hemsley discussed the first consultation document and how it considers the changing context while setting out ORR's initial proposals for responding to these changes. He also spoke about the upcoming route level operation, system operator, enhancements and outputs working papers.
9. Chris discussed ORR's proposed priorities and approach around:
- Route-level regulation;
 - System operation;
 - New ways to treat enhancements;
 - Outputs & performance monitoring; and
 - Cost transparency & improved incentives
10. The panel also discussed the issue of there being limited incentive for private investment.

Item 4 – Network Rail asset sales

11. John Larkinson discussed the on-going meetings around potential asset sales and that no decisions on specific sales had been taken yet, although various business cases are being developed by Network Rail.
12. John also spoke about the Hendy 'package' and how it assumed £1.8bn of asset proceeds. The working assumption is that this is mainly from commercial estate, freight sites and depots.
13. The panel discussed the issues around the disposal of freight sites including the need for them to be protected for future use. They also spoke about changes Network Rail is proposing on how licence condition processes work, particularly around consultation. John said this was a process change that has no impact on ORR's decision role.

Item 5 - Update on Highways Monitor activities

14. Simon Chapman spoke about Highways Monitor and what had been done over the past 12 months which included setting in the monitoring framework that was now in place and the six month Highways England performance report that has been published.
15. He talked the panel through the Q3 performance and spoke about areas that were on target/ahead of target and the performance indicators that were not on track.
16. Simon also discussed the key workstreams in 2016/2017 which included the RIS2 approach document to be published in December 2016 and the annual stakeholder survey.

Item 6 – Any other business

17. It was discussed, and agreed by all, that future freight customer panel sessions need to be longer than two hours in order to allow a fuller discussion.