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Dear Chris,

28 September 2012

Network Rail's Output Framework for 2014-2019

This letter and annex contains the response by DB Schenker Rail (UK) Limited ("DB Schenker") to the consultation document entitled "Network Rail's output framework for 2014-2019" issued by Office of Rail Regulation ("ORR") on 1 August 2012. This response may be published in its entirety on ORR's website.

DB Schenker is pleased to respond to ORR's consultation of Network Rail's output framework for Control Period 5 (2014-2019). DB Schenker recognises that the setting of this framework is:

- a. a critical element of the Periodic Review;
- b. central to the delivery of the outcomes necessary for freight customers and operators; and
- c. critical in focussing management attention on those areas necessary to deliver long term outcomes for the rail industry.

In general, DB Schenker considers that there should only be a limited number of output measures supported by enablers and key indicators which focus on key priorities and seek to avoid perverse behaviours or outcomes. DB Schenker believes that the outputs would have a greater chance of being achieved if they are jointly agreed by Network Rail and ORR rather than being imposed on the infrastructure manager. It is also vital that, whatever measures are used, that ORR has absolute confidence that the data can be made readily available at an appropriate level of quality, particularly as such data is used widely beyond the confines of the rail industry and can impact on customer choice, policy decisions and business direction. It is, therefore, vital that output measures that can only be supported by incomplete data, engineering judgement or 'best guess' estimates should not be set.

Rail freight in the UK is a nationwide market in which flows of traffic are driven by customer commercial need and bear no relationship with Network Rail's route boundaries. Typically, rail freight flows cross at least three or four Network Rail routes and in many cases it can be more. DB Schenker, therefore, strongly supports ORR's proposal not move to route based outputs.

It is disappointing to note that in replying to ORR's corresponding consultation in respect of PR08, DB Schenker's views were expressed against a background of Network Rail missing its (2006/07) freight performance target. Similarly, DB Schenker's response to this consultation is again against a background of Network Rail's non-delivery of its freight performance target. Therefore, DB Schenker supports ORR's proposals to maintain pressure on Network Rail to improve its delivery of its output measures, particularly those that are meaningful to the rail freight industry (DB Schenker is particularly pleased that ORR has accepted the need for a new measure of freight performance). In this respect, DB Schenker will continue to rely on ORR to monitor Network Rail's performance and hold the Company to account throughout CP5 to ensure that the output measures that are set are being achieved.

DB Schenker's comments to ORR's specific questions raised in the consultation document are contained in the Annex to this letter.

If you have any questions, or would like clarification or amplification of any points, please do not hesitate to contact me.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Nigel Jones', with a long, sweeping underline.

Nigel Jones
Head of Planning & Strategy

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ANNEX**DB SCHENKER'S COMMENTS ON THE SPECIFIC QUESTIONS RAISED IN ORR'S CONSULTATION DOCUMENT**

Q1. Do you agree with our proposals for outputs and indicators for passenger train service performance? Should we retain the sector level outputs for PPM and CaSL (for England & Wales)? Is there more we need to do to ensure consistency with franchise obligations?

2.1. This question is aimed at passenger operators. Therefore, DB Schenker has no comments to make.

Q2. Do you agree with our proposals for an output and indicators for freight train service performance?

2.2. DB Schenker has been heavily involved in the development work aimed at devising a new measure of freight performance based on cancellations and significant lateness ('freight CaSL') which it hopes will provide a more meaningful output that is closer to customer experience and expectation than the current measure based solely on delay minutes. DB Schenker is, therefore, pleased that ORR intends to adopt this new measure subject to a satisfactory starting point and trajectory for CP5 being agreed with Network Rail. In this respect, DB Schenker considers that the new measure should be set to commence at an equivalent position to that achieved by Network Rail at the end of CP4 with a forecast trajectory of improvement across CP5 as this will incentivise Network Rail to continue to focus on and improve freight performance.

2.3. The new measure which focuses on significant lateness and cancellation should not, however, be allowed to cause a loss of focus by Network Rail on smaller delays to freight services, which are critical for some customers. In addition, small delays to freight services can often result in the loss of a Train Slot which can in turn lead to significant lateness or cancellation later in the journey. Therefore, notwithstanding the new measure being adopted as a CP5 output, DB Schenker agrees that a measure of freight delay minutes should be retained as an indicator. The retention of delay minutes as an indicator will also provide continuity between Control Periods and act as a comparator between passenger and freight performance. This will be important as CP5 develops, particularly as the majority of freight growth is planned to be concentrated on main lines alongside long distance passenger services. Having units of common currency is also likely to be important for holistic network performance management.

2.4. DB Schenker continues to have significant reservations about the freight performance measure (FPM) which has been published by ORR in recent years. The 0 – 10 minute threshold is tighter than many customers require and delays caused at the request of the customer are treated in the same way as operational delays. However, DB Schenker does acknowledge that FPM has gained some support for its simplicity and comparability to the public performance measure for passenger trains (PPM). It is unclear from the

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consultation document whether FPM will also be retained as an indicator, although it appears not.

2.5. As indicated earlier in this response, rail freight is a national market that bears little relationship with Network Rail's routes. DB Schenker would, therefore, as a principle expect performance measures to be expressed nationally. However, DB Schenker has also been involved with Network Rail and other freight operators on the concept and development of Strategic Freight Corridors (SFCs), which it envisages will form a key element in how freight performance is jointly managed in CP5. Therefore, if there is to be any disaggregation of freight performance, perhaps to recognise particular customer or market sector requirements, then the SFC concept would offer a possible way forward in this respect which could be managed within the performance management structure emanating from the Freight Recovery Board.

Q3. Do you agree that outputs for Network Rail in relation to named projects, capacity metrics and funds should be project-specific milestones defined in the enhancements delivery plan? Do you have any comments on how useful the enhancements delivery plan has been in CP4? What are your views on indicators to measure the efficiency and effectiveness of the use of the funds?

2.6. In general, DB Schenker agrees with ORR's proposals for monitoring progress and delivery of enhancement projects. However, DB Schenker believes that it is vital that capacity plans and metrics are comprehensive, transparent and measureable. It should be clear in each case what the expected outcome is for all users and the delivery milestones must clearly set out what is to be delivered, how this will be achieved and by what date. Whilst the example given in paragraph 3.22 (figure 1) of the consultation document of the enhancement scheme delivery milestones for the Kings Cross Station Project gives a degree of information in this respect, there could be significant uncertainty surrounding exactly what output is to be delivered if general terms like "provides operational facilities" are used. DB Schenker considers that to avoid confusion and conflicting expectations, the operational facilities to be provided in this case and all future cases, should be better explained in the delivery milestones document.

2.7. Where enhancements are delivered at a route level rather than as specific projects, the same considerations must apply. For national operators such as DB Schenker, managing enhancements being carried out at a route level can be a significant challenge as providing management resources to attend up to ten route meeting structures as well as participating in national level projects is not practicable. Keeping even major enhancements under proper review is challenging for national freight operators. The upgrade of the GN/GE Joint Line in CP4 is a case in point. Compared to the schemes managed under the Strategic Freight Network (SFN) Fund process, visibility of scheme plans and progress has been difficult.

2.8. DB Schenker's experience of being involved in the governance of the SFN Fund has given it a good appreciation of what success can be achieved if robust arrangements are put in place at the start with the active participation of relevant key stakeholders. DB Schenker would, therefore, support a strengthening of governance arrangements for

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all other 'ring-fenced' funds in a similar way providing clear controls over financial allocation and change control processes. As these funds tend to target smaller scale enhancements, any outputs must be proportionate. They should also recognise that the benefit /cost ratio (BCR) may need to consider the overall portfolio of schemes as well as each individual scheme in isolation. In the case of freight for example, gauge clearance of a diversionary route often has a lower BCR than the associated principle route to which it applies, yet the provision of a gauge cleared diversionary route is nevertheless vital to the overall robustness of a successful gauge cleared network.

2.9. DB Schenker considers that governance arrangements for any enhancement fund should allow a degree of flexibility in order to react to necessary and unforeseen changes that are identified during the Control Period.

Q4. We propose to define delivery plan milestones to ensure Network Rail delivers a plan to reduce risk at level crossings, and to use certain indicators to monitor Network Rail's delivery of these outputs and its wider legal obligations. Do you agree with this approach?

2.10. DB Schenker believes that the responsibility for health and safety must rest with the industry. It also believes that extensive reporting and monitoring adds cost to industry and does not, of itself, drive safety performance. In addition, DB Schenker considers that any measures should not create cost and administrative burdens for an industry that already has a safety record significantly better than its modal competition. Therefore, the focus of ORR and Network Rail should be on ensuring compliance with existing rules rather than devising additional new ones. In parallel, ORR and Network Rail should examine whether any out of date safety rules that hinder the efficient operation of the railway can be removed.

Q5. Do you have a proposal for an alternative to the existing network availability (for reducing disruption from engineering works) outputs, which could be viably implemented in time for the start of CP5? If the existing outputs are retained do you have any proposals to improve them?

2.11. DB Schenker does not regard the current PDI-F measure as either useful or fit for purpose and is disappointed that ORR's proposes to continue with it for CP5. The measure itself is too general to have any applicability to the requirements of customers or market sectors. In addition, it does not incentivise the use of measures such as single line working or diversionary routes for freight and the flat trajectory target has no incentive for delivering any improvements during the Control Period.

2.12. There has been good progress in developing the Freight Joint Network Availability Plan (F-JNAP), which sets out the key routes and associated diversionary combinations required to keep freight moving and also to stimulate weekend growth. DB Schenker considers that the F-JNAP would provide a more meaningful framework for measuring disruption to freight traffic caused by Network Rail's possessions than the current PDI-F measure. The SFC concept reinforces this. DB Schenker would prefer to see network availability measured against the requirements of customers and market segments.

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2.13. However, whatever measure is introduced it will be important to ensure that it does not create perverse incentives and should ORR decide that a single output measure must be retained rather than a more flexible framework, then it should at least include an improvement trajectory during CP5.

Q6. Should we introduce a measure of the efficiency of the use of possessions, and if so how could this be defined?

2.14. DB Schenker would expect that Network Rail's overall efficiency target would drive improvements in the use of possessions and that a separate output measure should, therefore, not be needed. However, the overbooking of possessions is a key issue in reducing network availability, particularly during midweek nights and at weekends. Therefore, DB Schenker considers that Network Rail should provide as an indicator, the number of possession hours that were planned but not taken up due to reasons directly attributable to Network Rail (i.e. would exclude outside influences such as adverse weather).

Q7. Do you agree that we should retain the CP4 network capability output? Do you have a view on the usefulness of the indicators suggested, or any further suggestions for improvement?

2.15. DB Schenker supports the retention of the CP4 network capability output provided that the CP5 start point is measured from the position of what capability the network should be providing at the end of CP4 and not what it is actually providing. This would prevent any deterioration of capability during CP4 that has not been removed permanently through the Network Change process from being eradicated by default.

Q8. We want to improve the definition of the existing station condition output (SSM – station stewardship measure) and introduce a new measure – SSM+ – which provides a clearer disaggregation for measuring condition and better, value based, weights. Do you agree with this new approach?

2.16. As a marginal user of stations, DB Schenker has no comments to make in this area.

Q9. Do you agree that we retain the current CP4 measure of depot condition but treat this as an indicator rather than an output?

2.17. DB Schenker owns and operates its own depots has no comments to make in this area.

Q10. Do you agree with the proposed new approach to strengthen the focus on further asset management improvements? Do you have any specific comments on the detailed measures?

2.18. DB Schenker agrees that there is a need for Network Rail to continue to make improvements in its asset management capability and that it is appropriate to set

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output measures in this regard. DB Schenker also agrees with ORR that there should be measures indicating asset condition, asset performance; and the delivery of projects designed to improve asset management. ORR's proposed approach to outputs, indicators and enablers in these areas appears appropriate; DB Schenker particularly supports the inclusion of measures on asset data quality which has been a clear weakness in the past.

Q11. Which, if any, of the asset management measures do you think should be regulatory obligations (equivalent to outputs), and which should be enablers/indicators?

2.19. DB Schenker considers that the level of capability should be the output, supported by quality asset data with measures concerning asset condition and availability being key indicators.

Q12. Recognising that certain indicators are needed to monitor HLOS delivery, and that Network Rail is in the process of deciding on further indicators, do you have views on specific environmental indicators which we should monitor?

2.20. DB Schenker considers that the indicators set out in the consultation document (including those to be developed by Network Rail) appear an appropriate way forward in this area.

Q13. Should we introduce a new indicator of changes in journey times? Do you have views on how this measure should be calculated? Should we also introduce a measure of accessibility to stations?

2.21. Whilst journey times are of key importance to passenger operators they are also becoming increasingly important to freight operators also, particularly in relation to certain market sectors such as intermodal and mail/parcels. Therefore, an indicator of the average journey times of freight services on key routes (perhaps tied into the development of the SFC concept) would be desirable.

2.22. However, notwithstanding the above comments, DB Schenker would be extremely concerned if the focus on increasing journey times was to the detriment of overall capacity on key routes.

Q14. Should we introduce a new indicator designed to measure improvements in passenger information provision and how should this be measured?

2.23. As a freight operator, DB Schenker has no specific comments to make in this area.

Q15. Should we also consider new indicators for example covering Network Rail's supply chain management and approach to innovation?

2.24. DB Schenker considers that an explicit output is unnecessary as the overall efficiency target should be sufficient to incentivise behaviour.

Q16. Do you have views on the introduction of a new measure of how Network Rail is developing its capability as a system operator, and what the measure should cover?

2.25. The role of system operator is of vital importance to national operators, such as DB Schenker, particularly if Network Rail continues to devolve further functions to its Routes, establishes further alliances and perhaps issues concessions. The functions listed in paragraph 3.81 of the consultation document should all be covered along with the identification of strategic capacity, the establishment of a network-wide freight routing strategy and the provision of diversionary capability for freight.

2.26. DB Schenker notes that Network Rail is still developing its proposals in many of these areas so it would seem appropriate to consider the output measures further once more detail becomes available.

2.27. DB Schenker understands the problems surrounding the identification of a simple output measure defining capacity utilisation. Whilst the Capacity Utilisation Index (CUI) clearly has certain merits, its relationship to actual freight capacity is not straightforward. For freight, capacity on a particular route may not be useable unless it connects to paths on other routes and to slots at ports and terminals. CUI does not incentivise longer trains, or greater loading, which are beneficial in improving efficiency both in terms of resources and network capacity.

2.28. DB Schenker's concerns over the current capacity charge were set out in its recent response to Network Rail's consultation on that subject. It was clear from Network Rail's consultation document that the primary purpose of the capacity charge is to enable Network Rail to recover additional Schedule 8 costs associated with the increased difficulty of recovering from incidents of lateness as the network becomes more crowded and not to incentivise efficient use of capacity or for Network Rail to better manage reactionary delay.

2.29. DB Schenker, therefore, agrees that changes should be made to the existing measures and charges in this area and believes that any new output measures should encourage the better management of capacity and reactionary delay rather than incentivising Network Rail to reduce overall capacity.

Q17. Should we have a mechanism to allow formal trade-offs to be made between high level outputs during the control period?

2.30. DB Schenker has reservations about any formal mechanism, but recognises that the relationship between certain outputs and how those relationships change as the outputs develop is not clearly understood across the industry. This is a highly complex area that gets to the heart of how the railway operates as a system.

2.31. The industry is currently working together (under the joint aegis of Planning Oversight Group and the National Task Force) to get a better understanding of these

trade-offs and how they might impact on the changing railway during CP5. It would be prudent for ORR to take this work into account before concluding on this issue.

Q18. What do you think of the idea of a scorecard to provide context to our assessment of Network Rail's performance in CP5? Do you have views on our proposed scorecard, and do you have alternative suggestions?

2.32. DB Schenker is sympathetic to the simplicity and attractiveness of a whole industry scorecard but it will be important to recognise (and to maintain the distinction) that different elements of the proposed scorecard have different statuses e.g.:

- (a). Network Rail regulatory outputs.
- (b). Franchise performance targets.
- (c). Outturn statistics from the industry.

2.33. A number of the proposed measures are already printed by ORR. However, others would need to be collated in addition for example, freight operator revenues. DB Schenker would be concerned if provision of such data became mandated by ORR, for example by means of a licence condition. DB Schenker would also be opposed to the creation of any additional administrative burden if the scorecard was proceeded with in the way outlined in the consultation document.

2.34. Any data additional to that which ORR already has that is needed to complete the proposed scorecard should be data that is already in the public domain, for example from Annual Reports or Company House records. This is particularly important for private sector freight operators where there are potential issues of commercial confidentiality. Care will also need to be taken over the definition of what revenues are included as most operators have many income streams from many different activities not all directly associated with rail activity.

End