

***Second parallel sessions***  
**C: Accountability, monitoring and  
delivery**

**Andy Burgess**  
**Head of network regulation**  
**9 July 2008**



# *Summary*

---

- Framework for Network Rail's accountability
- How can I influence what Network Rail plans to do?
- How do I know what it will deliver?
- How can I make sure it delivers?

# *Framework for Network Rail's accountability*

---

- Contractual commitments
- Requirements in legislation – health and safety, environment, EU etc
- Competition law
- Incentives
- Outputs we set in a periodic review
- Licence obligations
- Our enforcement policies

# *How can operators influence what Network Rail plans to do?*

- Network Rail consulted on its strategic business plan
- We are now consulting on PR08 draft determinations
- Over coming months operators should discuss requirements and priorities with Network Rail as it prepares its 2009 business plan - the ***delivery plan*** for CP4
- We will consult on the ***delivery plan*** when we receive it in spring 2009
- Through CP4 all parties should keep plans under review as circumstances change and new opportunities are identified

# *How do I know what Network Rail will deliver?*

- We have announced in our draft determinations of the PR08 the outputs Network Rail must deliver
- There are two levels of these –
  - Top level regulated outputs
  - Disaggregated outputs which form reasonable requirements under Network Rail's licence
- These are in addition to Network Rail's other obligations, including those under its network licence, which we propose to strengthen
- ... and the ***delivery plan*** will define a further range of commitments at a disaggregate level, which must be consistent with the PR08 determinations

# *Network Rail's CP4 delivery plan (the 2009 Business Plan)*

- Will cover April 2009 to March 2014, acting as the main reference document for CP4 (2009-2014)
- Will include the top level outputs set in ORR's October 2008 final determinations
- Network Rail to set out plans in reasonable detail - for different parts of the network - how it will deliver the top level outputs
- In defined areas, the plans will have the status of reasonable requirements
- Clearly identified **aspirations** will not form reasonable requirements
- Draft notice in draft determinations
- Regulated change process

## *Regulated change process*

- Network Rail may revise the *delivery plan*
  - If circumstances change and needs are different
  - If better ways are found to deliver outputs
  - Including in response to customer initiatives
- It should seek to agree changes with those affected
- It will have to notify us of changes to commitments
- It will need our approval for changes to capacity schemes (to assure continued compliance with HLOS)
- We will investigate any complaint about changes to other 'reasonable requirements'

## *The network licence*

---

- 25 current licence conditions
- We have reviewed the network licence –
  - To strengthen it
  - To make it more purposive
  - To reflect PR08 and our approach to enforcement
  - To improve clarity by restructuring it
  - To remove unnecessary or unhelpful obligations

## *Structure of licence*

---

- Network management
  - Timetable information
- Restrictions on activities
- Dealings with third parties
- Information requirements
- Corporate matters
- Standard industry obligations

# *How can operators make sure Network Rail delivers?*

- ORR will monitor 'top-level' and HLOS outputs and certain disaggregated outputs - reported through Network Rail Monitor and Annual Assessment
- Operators are in close contact with Network Rail and can monitor local/disaggregate commitments
- Use industry processes to resolve problems. If necessary ORR can act to ensure commitments are delivered – through influence, facilitation or enforcement action (not just about penalties)
- The proposed changes to the licence make sure we can intervene where the impact is greatest

## *What should our approach to monitoring be?*

---

- What should we monitor?
  - Regulated outputs
  - Precursors
  - Diagnostics
  - Sustainability measures e.g. asset management
  - Financial measures e.g. efficiency
- How frequently should we monitor?
- What should determine the frequency?
- What should our monitoring stance be in the industry?
  - ORR taking responsibility v industry parties taking ownership

## *Our monitoring publications – are they fit for purpose?*

---

- Quarterly Network Rail monitor
- Executive brief of the Network Rail monitor
- Annual assessment of Network Rail
- Do we need to change our publications?
  - Frequency/timing
  - Format
  - Content
  - Detail

## *Enforcement – process of escalation*

---

- Discussion
- Correspondence
- Publication
- Formal investigation
- Choices – licence enforcement v competition law v health and safety law
- Enforcement order or acceptance of recovery plan
- Financial penalties