

Carl Hetherington
Deputy Director
Railway Markets and Economics

8 January 2020

Alexis Streeter
Network Rail

Dear Alexis,

Schedule 8: Our approval of the baseline annual train mileages for charter operators

1. We refer to your email of 19 September 2019, in which you asked us to approve charter operators' Baseline Annual Train Mileage for Control Period 6 (CP6)¹. This letter sets out our approval of the Baseline Annual Train Mileage for charter operators in respect of the charter operator Schedule 8 regime for CP6.

Background

2. In the charter operator Schedule 8 regime, charter operators and Network Rail have reciprocal annual caps on the net annual liability they face under the Schedule 8 performance regime.
3. The purpose of the annual caps is to provide certainty to charter operators and Network Rail on their maximum Schedule 8 liability for any year, without removing incentives and compensation for operators on events within 'normal' bounds².
4. In paragraph 8.2 of Schedule 8 in the charter operator track access model contract it states that each charter operator's Baseline Annual Train Mileage is compared to the number of train miles operated by the charter operator in that financial year ('Annual Train Mileage'). If the difference between a charter operator's Annual Train Mileage and its Baseline Annual Train Mileage is equal to or greater than 2.5%, the reciprocal annual caps will be reviewed and Network Rail can propose a new annual cap. In order for this to apply, charter operators would need to have a mileage greater than 1,000,000 train miles.
5. The Baseline Annual Train Mileage for each charter operator is the actual train mileage it has been billed for in the last financial year of CP5 (i.e. 2018-19).

¹ CP6 runs from 1 April 2019 to 31 March 2024.

² We consider an event to be outside 'normal' bounds if there was no way to expect it at the start of the control period, so Network Rail or charter operators could not be expected to plan for it.

6. At the time of ORR issuing the CP6 review notices, Network Rail could not provide us with the Baseline Annual Train Mileage for each charter operator as it required charter operator mileage data up to and including March 2019. As a result, it was agreed that ORR would approve the Baseline Annual Train Mileage after the start of CP6. We included wording in each charter operator’s contract allowing us to do this.

Proposed Baseline Annual Train Mileage

7. The Baseline Annual Train Mileage for each charter operator that the freight and charter Schedule 8 recalibration working group asked us to approve is set out below in Table 1.

Table 1: Charter operator Baseline Annual Train Mileages

Charter operator	Baseline Annual Train Mileage
[redacted]	[redacted]
[redacted]	[redacted]
[redacted]	[redacted]
[redacted]	[redacted]
[redacted]	[redacted]
[redacted]	[redacted]
[redacted]	[redacted]
[redacted]	[redacted]

8. In your September 2019 email, you explained that the Baseline Annual Train Mileages in Table 1 are each charter operator’s train mileage in 2018-19 and that no party has objected to the proposed recalibration of the Baseline Annual Train Mileage.
9. In addition, you explained that each charter operator has been consulted on its Baseline Annual Train Mileage. Also, you have provided the correspondence you had with each charter operator, which demonstrated that it was made clear to charter operators by Network Rail that not responding to the correspondence would be taken as an implicit agreement to the proposed Baseline Annual Train Mileage. In the event, not all operators did respond, but while we do not take a



non-response as an expressed agreement, we are satisfied with how Network Rail has conducted its consultation.

ORR's view

10. Based on the approach you have used to calculate the proposed Baseline Annual Train Mileage for each charter operator and the engagement you have had with operators, we approve the Baseline Annual Train Mileage shown in Table 1, for each charter operator.
11. Additionally, we are satisfied with the method (see paragraph 5) applied in calculating the proposed Baseline Annual Train Mileage for each charter operator as this method reflects actual train mileage, i.e. the actual mileage run by charter operators during the last financial year. We can therefore confirm that we will no longer need to determine this method for new contracts.

Yours sincerely,

A handwritten signature in black ink that reads 'Carl Hetherington'.

Carl Hetherington