

SECTION 17 HEARING - ST PANCRAS STATION

Office of the Rail Regulator
1 Waterhouse Square
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London EC2

Friday, 24th January, 2003

Chaired by:

Mr Steve Gooding
(Office of the Rail Regulator)

For the Office of the Rail Regulator

Mr David Chapman
Mr John Thomas
Mr John Cook

For MVA

Mr John Segal
Miss Nicola Troll

For Midland Main Line Limited

Mr Alan Wilson
Mr Jonathan Marshall
Mr Paul Matthews
Mr David Frost
Miss Caroline Teo
Miss Meena Naidu
Mr Roman Surma
Mr Gareth Saynor

For London & Continental Stations & Properties Limited

Miss Mary Kelly
Mr Duncan Ross
Mr Mike Page
Miss Helen Bissell
Mr Geoff Maynard

For SRA

Miss Carole King
Miss Fiona Lewins
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PROCEEDINGS

THE CHAIRMAN: Good morning everyone. Thanks to everyone for coming along today. I am just going to make a few introductory remarks to get us going. [(Housekeeping matters were then dealt with)]

Welcome to Midland Main Line and London & Continental, and the SRA are also with us today. I am not going to introduce everybody here from the ORR but basically the ORR team is arrayed here, and you can see from our name plaques who we are. I think pretty much we have all met each other in bilateral meetings during the course of this matter, if not on other occasions.

I am Steve Gooding, Director of Access, Competition and Licensing here, and it is for me to put a recommendation to the Regulator at the end of this process.

Roy, do you want to give us a quick run through of where things are? (Mr Smith dealt with domestic matters)

THE CHAIRMAN: Thank you, Roy. I want to say something about our approach and the purpose of getting together today. First, I should say that it is our current expectation that we are not going to be making a recommendation to the Regulator to make substantive changes to the bulk of the station access contract. I think that is something we have discussed separately with you. There are some tweaks and clarifications which are being discussed separately and we are not going to be going into the detail of that here today. Fundamentally, the things that we are looking at today relate to the compensation regime, the structure of that arrangement, and the level of compensation that is payable.

As we see it the purpose of the compensation regime is twofold. It is about holding Midland Main Line financially harmless, and it is about incentivising timely delivery and seeing disruption minimised. We are interested in exploring the parties' views on the extent to which the current regime meets these objectives, as well as probing the refinements to that regime that MVA are inviting us to consider as part of our consideration of the application.

We are running this more, if you like, as a transcribed meeting than as a formal, open public hearing. Basically, the nature of the issue is not of itself something that is of wide industry interest, and the nature of the representations did not make us think that it made sense to have lots of other parties present. We thought it was logical for the SRA to be with us. The purpose of having the meeting transcribed is largely for our benefit, to make sure that we are clear in the final submission that we put to the Regulator, that he is seeing everything that he ought to, and seeing it in your words. So it is obviously very important we get that right.

You will get the chance to correct the record of what you have said under the normal Hansard Rules, and, if we decide to publish the transcript, you will also get the chance to propose excisions from that on the same basis as we have discussed on other matters before they get put into the public domain.

We have prepared an agenda, (hopefully everybody has a copy) to give a bit of structure to the day. We have not tried to put rigid times against everything because I suspect we will hop about a little bit, but we thought we would try to keep ourselves on a fairly straight track to make sure we go through all of the issues that we thought needed to be covered, and that is taking into account the questions you have let us have in advance and the areas that we know that you want to probe. We will try to take questions through the Chair, but that does not mean that we cannot have people asking questions of each other, we just want to keep within a

framework and go through the issues.

We see the meeting today as the culmination of the process of submission and exchange of views that we have had with you, looking at the arguments and the supporting evidence, and making sure that we are all clear about what we are seeing.

As I have explained to you in the meetings that I have had with you individually, we have to strike a balance here between the fair, timely, and efficient resolution of disputes about access rights, and the need to consider and test, and consult the evidence material to that process, and given the fact that all parties know at the outset the procedures and the timescales which we are trying to follow we are quite reluctant to countenance delays - and as you know we have discussed those on a couple of occasions. We have allowed some extensions of time.

That said, we are also very mindful of the need to consider all relevant evidence, and we are always trying to strike a sensible balance here between new points or new evidence that you are raising that you think are material to the case and which we ought to consider, and the fact that ultimately the contract that exists is going to expire, and I do not think any of us wants to get to a point where we fall off the edge. That is really the trade-off that we are dealing with here.

If a new matter does arise today that we are not expecting, and it requires substantive discussion or consideration by us then we might decide to take it off line. We might invite you to submit a further note after the hearing which we can consider.

We have made provision - it is not in the agenda, but to reassure everyone - we have made provision for a couple of breaks. You know that we have rooms for you so there will be a chance for coffee at some point later in the morning, and lunch. I have not suggested a particular point in this agenda where we break for lunch, we will see how we get on and how fast we are proceeding through the agenda, and frankly we will see how hungry we are getting. The hungrier we are I find the more progress sometimes you make through the agenda.

Two other points I really want to make very clear. We come into this hearing - I particularly come into this hearing as the person who will be signing the recommendation - with an open mind on the issue of the compensation regime. It is not that we have decided that we are adopting in full everything that MVA have put to us and we have shown to you - far from it. We want to test out the recommendations that MVA are making to us, but at this moment in time it is without prejudice to what our final recommendation will be.

The other point I want to stress, I have mentioned it in the bilateral meetings but I want to say again, it is of course in your gift to stop the s.17 process at any time, and to come to us with a s.22 agreed amendment to your existing contract, if you decide that is what you wish to do. We would still have to approve that, debate it with you and explain the way we have had to consider it, but it still remains an option for you at any time. That said we want to press on expeditiously and come to a sensible answer.

Those were all the remarks I wanted to make by way of introduction. We have an opportunity for Midland Main Line and London & Continental to make some opening remarks, if they wish. Midland Main Line?

MR WILSON: Thank you very much, Steve. My name is Alan Wilson, I am Managing Director at Midland Main Line. If I might take a moment just to introduce my team. To my left is Roman Surma, he is a partner at the law firm of Edwards Geldard from Derby, and was personally

involved in the drafting of the Existing Agreement and the initial negotiations. Jonathan Marshall, who sits to his left, is currently the Franchise Compliance Manager from Midland Main Line, and was formerly Stations and Trading Contracts' manager and once again involved in the drawing up of the Existing Agreements that we are talking about today.

Further left is Meena Naidu, an economist with the Adam Smith Institute. Behind me are four individuals - Paul Matthews is the Passenger Income Manager for Midland Main Line. David Frost is the CTRL Compliance Manager at St. Pancras station, involved in the day to day workings of the current agreement. Caroline Teo, the Development Executive from National Express Group, and Gareth Saynor, a legal assistant to Roman, from Edwards Geldard.

If I may then move on to opening remarks on behalf of Midland Main Line. In order to facilitate the construction of the fast link to Europe at London, St Pancras station, Midland Main Line gave up many of its rights to which it would normally be entitled under a standard station access agreement. In return for the surrender of those rights, the Existing Agreement specifies that Midland Mainline are entitled to receive compensation. It was over two years of hard negotiation from late 1994 until 1996 that established the current balance which is set out in the Existing Agreement, and it involved a multitude of parties, and their representatives.

At the time it was expected that the Channel Tunnel Rail Link works at St Pancras would have been completed before the expiry of the current agreement in April this year. However, the construction of the CTRL at St Pancras has been much delayed, and Midland Main Line and London & Continental are left in a position where the bulk of the CTRL works are still to be carried out, and a new station access agreement is indeed required.

Midland Main Line have consistently held the view that the commonsense way forward to the new station access agreement is simply to extend the Existing Agreement to the date at which the new St Pancras International station opens. We believe that the existing station access agreement has worked satisfactorily both prior to and following the commencement of the construction works.

The present agreement has provided London & Continental with a high degree of certainty that it can plan and implement the CTRL works without interference from Midland Main Line. Likewise, Midland Main Line has been assured that its operation at St Pancras is protected from the worst effects of the construction and that it will be fairly compensated when disruption does occur.

In Midland Main Line's view it appeared, and still appears, to be logical that these qualities of balance and certainty should be carried forward in the new agreement. Such action would have resulted in a minimum expenditure of time and resource in achieving a sensible outcome.

London & Continental do not share that view, that the elements of balance and certainty achieved by the provisions of the Existing Agreement should be carried forward into a new agreement. Indeed, they seek to upset that balance by proposing to reduce the levels of compensation payable to Midland Main Line, to a significantly lower level.

We regret that it has been therefore necessary for us to seek directions from the Rail Regulator under s.17 of the Act.

London & Continental have proposed revised lower levels of compensation for both general damage and specific facilities compensation.

The purpose of general damage compensation is to compensate Midland Main Line for reduced revenue and increased costs. The figure in the Existing Agreement was negotiated with the station facility owner, agreed after considerable debate with the Department of Transport, and was agreed at per cent. of the Midland Main Line annual revenue to reflect the value to Midland Main Line and their business at that time.

In the interest of certainty it was later fixed by the Department for Transport at a level of £ subject to RPI increases. Despite achieving a sustained and dramatic increase in passenger revenue since privatisation, Midland Main Line is content that the general damage compensation be maintained at the same level, so that certainty and balance continue to be maintained. We are not seeking to profiteer from this negotiation.

We note MVA's comments about this subject, but do not feel that Midland Main Line's response to London & Continental's representations were taken into account at the time of their draft report - a subject I know we will come on to later.

It appears that London & Continental's case for a reduction in general damage compensation primarily rests on their assertion that Midland Main Line will be moved to an interim station between 2004 and 2006, which was (a) not foreseen when the Existing Agreement was negotiated, and (b) would provide a first class station environment. Midland Main Line's view is that we have proved that such a situation was indeed foreseen during negotiations, even as far back as May, 1995, and as regard the conditions to be offered within the interim station, Midland Main Line strongly dispute, for the reasons given earlier in this process, that these will be any better than those currently suffered.

London & Continental have not presented any evidence which would lead us to consider that the level of compensation set in the Existing Agreement is incorrect, and Midland Main Line are firmly of the view that the current figure represents a reasonable estimate of the damage caused, and that is likely to continue to be caused to our business.

MVA's draft report recommends an increase in the levels of facility compensation so as to reflect the growth in Midland Main Line's business since the Existing Agreement was negotiated. London & Continental themselves wish to reduce substantially the levels of facility compensation, although their justification for such a course of action has not been made clear.

We, Midland Main Line, submit simply that the level and methodology for the calculation of facility compensation should be maintained at the level in the Existing Agreement. The regime has worked satisfactorily during the currency of the Existing Agreement, and we see no reason for unnecessary change.

The Existing Agreement was concluded after sustained and detailed thought, consideration, compromise and negotiation. The compensation regime contained within that agreement is part of a balanced package reflecting the withdrawal of certain of Midland Main Line's rights when compared with the standard station access agreement. The certainty that it provides in relation to the CTRL works should continue until those works have been completed.

We would therefore ask that the Rail Regulator gives due consideration - consistent to its approach when first approving the station access agreement in 1996 - to Midland Main Line's request to direct London & Continental to enter into the new Agreement as submitted.

Thank you.

MISS KELLY: Good morning. My name is Mary Kelly. I am the Finance Director at London & Continental Stations & Property. If I can take a moment just to introduce the members of my team. To my left is Duncan Ross, he is Station Projects Manager. To my right is Geoff Maynard, our Economic Adviser, and Helen Bissell, a partner at Hollingworth Bissell. Both were involved in the negotiations of the current arrangement for British Railways.

Behind me is Mike Page, our Station & Safety Manager. As has already been covered, we have been negotiating for some time, and unfortunately we have not reached the stage of being able to agree terms. LCSP have put a number of offers on the table in ever increasing amounts. None of these have been accepted by Midland Main Line and they have refused to budge from the current levels.

Midland Main Line in discussions have not been able to quantify a loss or been able to justify the continuation of these amounts, using as a major argument the fact that the current agreement was to cover the duration of the CTRL works, and therefore should not be altered. LCSP, on the other hand, argue that much has changed since the current agreement was negotiated and concluded. At the time of the negotiations there was a great deal of uncertainty about the exact nature of the CTRL programme.

That uncertainty is no longer an issue and the CTRL project has been honed and improved, with Midland Main Line's operation being transferred to an interim station, what will become the Kent domestic station. Despite Midland Main Line's assertions this is a fact that was definitely not envisaged at the time of the negotiations of the current agreement. We have now located documents which are available for inspection today which prove this point. This move not only provides Midland Main Line with a brand new station at no cost to them, it also removes them from, and insulates them against the main thrust of the construction work. However, as a result of this under the current arrangements, LCSP's liability to pay compensation will soar due to the increase in walking distances following the move. Against this, there seems to have been no consideration of the improved station environment which, assuming a full economic appraisal were carried out, would be regarded as a benefit to Midland Main Line and its passengers, and the amount of benefit therefore should offset against the compensation due to them.

Midland Main Line have prospered, and there is no evidence that the St Pancras redevelopment has impaired that prosperity. Midland Main Line have failed to quantify any loss except one instance, and there are factors other than the works of St Pancras Station that could have contributed to the loss in question. These other factors included works on the track, and the unreliability of Midland Main Line's new trains as reported in the Strategic Rail Authority press release dated 2002.

We are quite prepared to compensate Midland Main Line. Compensation has never been an issue, it is simply the amounts that are payable that has been the problem. As far as our discussions with Midland Main Line have gone, we agreed to carry forward the broad principles of calculating the facility compensation, the stepped approach, but purely on the basis of a substantial reduction in the rates payable.

In discussions with Midland Main Line they refer to a loss against the forecast for the last two periods of 2002. The factors that may have contributed to this loss were the removal of a peak time train service from Luton to St Pancras, Virgin's new Sheffield/Derby

cross country service, and track interruptions. Also there has been a general slump in the railway post-Hatfield and Potters' Bar. Therefore, while part of this loss may be due to the CTRL works at St Pancras, it is disingenuous of Midland Main Line to ignore the other factors.

The current compensation regime was agreed assuming a very different set of circumstances. General damage was an arbitrary amount and was arrived at on the assumption that there would be only small amounts payable in respect of facilities being either removed or moved. This was based on the then belief that Midland Main Line were to continue to operate from the current train shed in the middle of the production site, and thus the compensation for walking distances would be very small.

With Midland Main Line franchise up for sale it was obvious that they needed to have a decent guaranteed sum to make it a more attractive prospect given the CTRL works.

At the moment Midland Main Line are using St Pancras for a net sum of a a year. Under the current regime once they move to the interim station we will actually be paying them to access our station some a year. Surely, at the very least compensation should be capped at the access charge received from Midland Main Line.

It is probably also worth pointing out that the measurements of the walking distances to LUL and other transport modes are much greater than those assumed in the MVA report. In fact, our estimates of the amounts payable under MVA's proposals arrive at approximately per annum at the interim station and at the final location. These sums are approximately per cent. and per cent. than Midland Main Line's total net profit at 2001.

Midland Main Line seem to regard the interim station as some form of glorified Portakabin City. It is worth bearing in mind that although only a temporary home for them, they are being provided with a brand new station. Midland Main Line complain also that the station standard will not be that of an Intercity station. This is patently untrue. LCSP have consulted fully with Midland Main Line and will be providing them with a first class lounge, which is not obligatory. Catering facilities, left luggage office, a travel centre, terazzo flooring, to name but a few of the facilities that they will enjoy. These facilities are somewhat above the standard of a suburban rail station!

A further point to note, and one of considerable value to Midland Main Line is that LCSP will be branding the interim station in the Midland Main Line colours. Other than the Gatwick Express section of Victoria Station which is branded for historic reasons, this approach is completely unheard of at a Railtrack operated major station, and places Midland Main Line in an enviable position compared with most other TOCs. None of these benefits have been taken into account.

In considering general damage compensation we believe that the effects of construction on Midland Main Line's business are minimal. Subjective observation of the station environment indicates no evidence of noise or dust pollution arising from CTRL works. Objective surveys indicate that the station is noisy but that it is not a particularly dusty environment. MVA acknowledge in their report that St Pancras is a noisy station due principally to the use of the diesel traction engines by Midland Main Line, and both the formal noise surveys, and observation by the study team indicate that additional noise and dust due to the construction work is likely to be modest.

It might be also worthwhile flagging up Midland Main Line's continued

misinterpretation of our dust reports. Although we know the Rail Regulator has sought to correct them, they have persisted, although it is clearly stated that the earlier reports measure diesel only but the later ones include dust levels.

As for the role of the Strategic Rail Authority at this hearing, we have to express some concerns. In their submissions to the Rail Regulator they declare themselves very firmly in favour of Midland Main Line's position. They have no jurisdiction over the CTRL Railway and its associated facilities. They do, however, have a very real interest in Midland Main Line, for this reason it is impossible to consider them to be independent in this particular case. Also, in advance of an economic appraisal, they stated that there was no economic value in alteration to the current regime. LCSP strongly disagree with this statement.

We understand that the MVA analysis will form the basis of the Regulator's directions on this matter. We have already expressed our concerns in writing about many of the assumptions that have been used by the MVA. Further, although they have stated that benefits should be offset against disbenefits, the interim station being a particular benefit mentioned in the narrative of their report, they have failed to take into account in the computation of the benefits that will be enjoyed by Midland Main Line free of charge, arising from either the interim station or the Final station.

In our original proposal we used values for levels of abatements as proposed by the Regulator. However, MVA rejected these as inappropriate in the circumstances though we are unsure why the loss of a facility due to a construction project should be regarded as different to a loss resulting from poor station management. Our proposals were made in ignorance of the PDFH, but if the PDFH is a more appropriate means of valuing disbenefits, then the value of benefits contained in the PDFH should also be taken into account. We are delivering the first new railway in Britain for over 100 years. It is a project of national and international strategic importance, underwritten by the Government. Bottom line windfalls to private companies are a perverse burden on such projects, and a reason why major rail projects are disproportionately expensive.

Thank you.

THE CHAIRMAN: Thank you for that. I just want to emphasise that the status of the Rail Regulator is independent of everybody, and the judgment we will be coming to, and the recommendation we will be making to the Regulator will take account of all the factors, and we will be trying to come at that, as I say, independently. I hope there is no doubt about that.

The next part of this meeting, we suggest, is a presentation from MVA. The way we have structured the agenda is to run through the presentation, which I hope picks up to quite an extent some of the issues that both Midland Main Line and London & Continental have raised. It is our proposal that MVA run through the presentation taking questions only on points of clarification, and then actually pick up questions following that. We will be able, through the wonders of modern technology, to have the slides up and go back to them when we go through the headings that are on the agenda on the particular issues, and run through the particular questions you have. If that is OK with you, then we will press on with the presentation.

MR SEGAL: John Segal from MVA. Thank you very much. What I want to do in this presentation is to summarise the report that I imagine all of you have read, so I am not going to go through every item in detail. Neither am I going to go through the report in the order in which it was

written, because I think for a presentation like this there are clearer orders.

Slide 2 First, I would just like to introduce myself: I am John Segal, Director Rail for MVA Limited. We are advisers on economic issues to the Office of the Rail Regulator. As well as having had a career in the railways, I have been a transport economist and an expert on demand forecasting and evaluation for more years than I wish to remember, (but it probably gets close to 30 now).

Nicola Troll, who is assisting me, has been with MVA for 10 years as an expert on demand modelling. Slide 3 I am not going to give you a sales' pitch on MVA, but I do think it is important that you understand our competence in this issue. We are an independent transport consultancy. We specialise in demand forecasting and economic appraisal, as well as a number of other areas. We have worked extensively in all areas of the rail industry.

Slide 4 I will now give you an overview of the presentation. It is quite a lengthy presentation. I make no apologies, there is a lot of material to be covered. My guess is that it will be lasting about three quarters of an hour.

First, I want to go through the objectives of the study; the process we have adopted; then look at the issue of the purpose of compensation; the methodology, at a high level, for calculation of compensation; to look specifically at the elements we have included in our recommended compensation regime; and also those elements we have excluded (because I am sure that is of interest to you), particularly the ones which both parties have questioned.

The major part of the presentation will be about the calculation of individual elements, and via those we will come to an assessed impact of the compensation regime.

While I am going through this presentation I am going to seek to answer at least most of the questions and issues that have been raised by the parties in their questions sent in beforehand. I am not going to have them tacked on the end, but as the issue arises naturally in the presentation I will try and address those issues.

I should say, as a result of the representations made, we are minded to make a number of modifications to our recommendations. I say that advisedly, because we are here to listen to what you say. If you make good points, we will take them on board, and may modify our recommendations to the Rail Regulator. It is for the Rail Regulator, I think, to decide how to reflect what the parties views say, but the Regulator's directions will take account of what we say. However, I am sure it will not be exactly as what we say.

Slide 5 The objectives of the study were set by the Rail Regulator. We are providing advice to the Regulator, not instructions. We assessed the compensation regime proposed by Midland Main Line, taking into account the comments of L&C, SRA and all other interested parties. We considered whether alternative arrangements would be more appropriate and summarised this in a written report, and subsequently provide evidence here at the hearing.

Slide 6 While in discussion with the ORR we came to an agreement that what we recommended should be based on sound economic principles, and therefore the process we established at the beginning of the study was to establish what were the economic principles regarding the compensation regime.

Once we had done that, we formulated these into what we called a "benchmark regime", and I am still not sure that is quite the right word. Please do not take much around the word "benchmark". It is effectively - theoretically what you would be looking for in a

compensation regime, what you would be seeking to achieve.

What we then did immediately was to go on to say that there are certain aspects of this theoretical regime which are very complicated and which, for practical reasons, we do not believe we would recommend. Therefore, our recommendation is a rather simpler regime. What we do have here then is a clear trade-off between the economic principles and the simplicity. That is not a quantitative trade-off: it is just "yes" you can go for this option, which is really based on the economic principles but will involve quite a lot of complexity, less certainty, etc. Alternatively, you can go for this simpler one, which broadly meets those economic principles, but which has some easier ways of doing things.

Finally, and actually quite linked to that, we were seeking to avoid any unnecessary change from the Existing Agreement.

Slide 7 In this presentation I am actually not going to say much about the benchmark regime. It is covered in the Report but we are actually going to go straight in general towards what we are recommending, because I think that is simpler rather than separating them out as we did in the Report.

So moving straight on to the purpose of compensation. First, I want to say that this compensation that we were asked to address relates to station access. It does not relate to any issues to deal with track access, they are separate, nor is it about the long term charge for the station, it is about compensation for Station Access.

We looked at this on a theoretical basis and identified three potential purposes. The first purpose could be the loss in revenue, and also the additional costs, to Midland Main Line. This is stated clearly as the purpose of the existing agreement. It could be also the loss in passenger benefits, what in economic terms is referred to as "consumer surplus".

I must say that a substantial number of the consultation responses identified this purpose, some of them suggesting that there ought to be some automatic mechanism for feeding compensation through back to the end customer, the passenger.

The third purpose is to incentivise London & Continental to an optimal degree. There is no suggestion here that they have not been taking into account Midland Main Line's needs, and the needs of Midland Main Line's passengers - no suggestion about that, but we do believe all contracts should have this incentivisation issue in.

When we looked at these three approaches - it is not fortuitous because it is actually as a result of the economics of the Rail Industry - we found that they would all provide a very similar outcome in terms of a compensation regime. There would be differences at the margin, but basically they would lead down the same one, which was a great comfort because it means that the selection, of which of these three is important, is actually a relatively unimportant selection. We chose to focus in on the revenue loss and additional costs approach, mainly because there is little difference, and because it was that in the existing agreement we felt it was right and proper, and there was a lot of agreement on that.

Slide 8 The methodology we used then, although we were interested in Midland Main Line's revenue loss, we actually need to start from the issue of the passenger and the passenger disbenefit. This was converted into increases in generalised journey time. Now I need very briefly to explain what I mean by that - many of you will know already. It is the journey time of a passenger but taking account of the fact that, in certain conditions, time is valued rather more

highly. In very noisy or dirty conditions, in conditions where you are carrying your suitcase or your briefcase, it is potentially valued rather more highly than when you are sitting in a very fine Midland Main Line train. So that is what generalised journey time is. It also takes account, in railway parlance, of issues like the waiting time for trains, any interchange, etc., but they are probably relatively unimportant in this context.

Some of our passenger disbenefits naturally fall into that generalised journey time category, and others fall into a fare-type category, and equally that is clearly a relative thing.

We then estimate the impact on Midland Main Line's revenue as a result of this change in generalised journey time or fare. For the fare items we based it on demand elasticities. For the generalised journey time issues we were looking at the same principal issue of demand elasticities, but in fact there was a more convenient way of doing that, to take it on board, which is to use the MOIRA software. MOIRA is an industry standard tool - it has been around for many years. It basically reflects the elasticities contained in the Passenger Demand Forecasting Handbook, and is used to convert changes in timetables into changes in demand and revenue. We have therefore used this, and we can easily use it. Midland Main Line did the runs first, to say for example "what is the impact of a one minute increase in journey time of every train into St Pancras?" It is designed to answer exactly that question. Therefore, that is what we used it for.

We have essentially based our work on the Passenger Demand Forecasting Handbook, the 2002 version. The Passenger Demand Forecasting Handbook is a document that dates from the British Rail days, and is used widely throughout the Railways - it is not compulsory to use but is used by practice by the vast majority of operators - to assess the impact of all sorts of changes, including journey time and timetable changes on the demand and revenue of train operators. As I said, it was substantially updated in 2002 and we have used that updated version.

We have sought to keep things as simple as possible. There is always a trade-off between accuracy and simplicity in almost any work and therefore we have involved simplicity where we can do so, and where the approximation we consider is reasonable.

Finally, we recognise the importance of certainty to both parties, and we will come on to that in the next slide. Slide [No. 8] shows that, although the methodology is actually talking about the impacts of passengers, we recognise also there are impacts on Midland Main Line costs with certain of the things, and we have taken those elements into account.

Slide 9 Certainty. This is an issue that is important both to Midland Main Line and to L&C, that they can plan the future with certainty. I must say that when we looked at it, we did not see that certainty was the same as just continuing the existing regime. One of the issues for that was what assumptions were made in the three items noted on the slide: the Midland Main Line's original franchise bid, London & Continental's concession bid, and Midland Main Line's franchise extension. What were the assumptions made then about the compensation regime. In particular, what assumptions were made post-2003 about the compensation regime, because up to 2003 it might reasonably be thought that it was the compensation regime that was agreed. We were not clear about that, and nor were we clear about whether those assumptions were justifiable assumptions, of course.

The fact that there is disagreement over the continuation of the existing regime has

automatically increased uncertainty. What we are seeking to do in our recommended regime is provide a position where, as from now, or as from the determination by the Regulator Midland Main Line and L&C will be able to go forward in certainty, forward planning their businesses rightly knowing in the appropriate circumstances what compensation they will receive. Hence, essentially in our recommendation, the level of compensation depends only on the facilities provided, and where they are provided.

Slide 10 Which elements have we included in the compensation regime? Essentially we have included those elements that are included in the existing regimes: the additional walk times for passengers and staff to the relevant facilities; non-provision of these facilities (if that occurs, movement fees whenever facilities actually move); liaison costs; and general damage relating to the station environment. We are going to come on to general damage later, but just to say at this stage we envisage general damage essentially being about noise, dust and visual intrusion.

The items we have excluded, I particularly mention those four because they are four items that have been mentioned by one or other of the parties. We will address each one of those four items later in the presentation, as and when we get to them in the relevant part of the presentation.

Slide 11 An important element of almost all the items of compensation is the Midland Main Line base revenue. Effectively, any compensation which is related to passenger disbenefits is proportional to the level of Midland Main Line's revenue. It is the revenue through St Pancras that is important –(it does not actually say so on the slide), but reading it last night I realised that £ we put in there was the estimate of Midland Main Line's revenue through St Pancras.

We were provided by Midland Main Line with a budgetary estimate for this figure for 2003 which was somewhat higher. However, they subsequently indicated that they were not on track to achieve their 2002 figure, and our understanding of all the Train Operating Companies is that they are unlikely to achieve revenue targets for either 2002 or 2003. Hence, we have chosen to use a lower number in our analysis. I must say, this point is very important, that this is subject to review. If better quality evidence can be provided, in particular the evidence we were provided with was now two months ago, if more up to date figures can be provided, and a reliable estimate of the figure for 2003 can be made, and we feel comfortable with it, then we are prepared to revisit and revive that figure. As I said, we are here to listen to you as well.

Slide 12 I will now go into some of the detail. The most important element of the compensation regime is likely to be the walk time to facilities. This is for passengers and staff, and applies both to facilities on the station (for example, toilets) and also facilities very important to passengers for which they walk off the station (for example, the taxi rank). The passenger disbenefits are likely to be the most important substantially, but there are also some additional costs to Midland Main Line due to the loss of productive staff time spent walking to facilities.

Slide 13 Turning now to the passenger element. There are effectively four elements to the calculation of passenger disbenefits. There is the average usage of each facility. Obviously, if a facility is hardly ever used then an increased walk to it is relatively unimportant. If a facility is used by every single person, like the walk between the concourse and the platform, then it is much more important. There is a change in the walk time, and then the last two, we have separated out the valuation of that walk time change in relation to in-vehicle time, and then

used an elasticity of demand to a change of in-vehicle time.

As I said earlier, in most circumstances it is pretty much accepted that the value of time spent walking when they are expending energy, potentially carrying things is valued rather more highly than time spent sitting in a comfortable chair.

Slide 14 Taking this calculation a little further forward, let us look at the example of a hypothetical facility which has moved by one minute and this facility is used by 100 per cent. of passengers. The daily revenue impact is the value of that walk time I mean here the value of the walk time as a percentage of in-vehicle time (it is not possible to get everything on the slide) - multiplied by what I have called IVJT. I apologise for the mathematical formulation. It shows the impact of a minute's time in generalised journey time on revenue.

This, as I said before, is calculated from data obtained from MOIRA. MOIRA contains the generalised journey time elasticity coded into it.

Slide 15 When we have got this figure out, it can then be adjusted pro-rata according to the facility usage and the actual change in walk time. The calculation works out, on the basis of the £ per annum, and 363 days operation - we have taken on board Midland Main Line's correction that they do not operate trains on Boxing Day - at £ per day. The impact of a one minute change in generalised journey time, taken from MOIRA is 1.074 per cent. The value of walk time is a change from what was in our draft report. Again, we have listened to what people have said to us and we will come back to that with a specific slide. I will address that issue of why it is 1.6 later, but we estimate that on average people value walk time 60 per cent. higher than in vehicle minutes. The calculation at the bottom [of the slide] is a very simple multiplication factor, which leads to £ per day for a facility that is moved one minute, and which is used by all people.

Slide 16 If then we have another facility, and I take another hypothetical example (this is not related to any proposed change) but suppose the train departure displays are moved by 45 seconds increase, we assess that those are used by 50 per cent. of passengers that is all departing passengers and no arriving passengers for simplicity and therefore the total daily compensation for this is at £ we saw before, multiplied by three quarters of a minute, by 50 per cent., £ . Again, I must just emphasise this is hypothetical. We have not tried to estimate it at all, it was an example.

Slide 17 Now we are turning to the issue of passenger walk time, and there is a lot on this slide. Traditionally this has been valued by transport planners, I should think since the 1960s, at twice in-vehicle time, and this was a figure that was used in our draft report.

However, it was questioned by London & Continental and I think rightly so. The Passenger Demand Forecasting Handbook gives quite a complex formula for how walk time should be valued relative to in-vehicle time. This was based on work by the Institute for Transport Studies [ITS] at Leeds University.

Not only have we looked at what PDFH says, we have identified and found the source document from the Institute for Transport Studies at Leeds University, and we have a copy of it (it is a public document). We have read that through thoroughly. Finally, I have actually spoken twice with the author of that document, Dr Mark Wardman, just to make sure that my interpretation of what he has written is correct.

As a result of this we have identified that, probably, a factor of 2 is too high. What it

gives for a 100 mile journey by rail (and there are slightly different figures, depending on distance, but 100 miles seems pretty appropriate for Midland Main Line's business) the valuation does vary slightly by the length of time, and we have taken two figures of 2 minutes and 5 minutes because they are quoted in the report and also for London Underground these may be the sort of increases we are talking about.

From PDFH we see that walk times of 2 minutes are valued at 0.97 times in-vehicle time (unusually this is marginally less than 1), making a total valuation of 1.94 minutes. 5 minutes is valued at 1.24 times in-vehicle time (more common), that is a total of 6.2 minutes. The calculation on the slide shows that the incremental 3 minutes is valued at the difference (6.2 minus 1.94) which equals 4.26 minutes; dividing by the 3 incremental minutes, this gives a valuation of walk time of 1.42 times in-vehicle time.

However, PDFH does make it clear, and immediately after the table in PDFH it is mentioned, that higher values should be used for stairs and escalators. It does not mention congested conditions in PDFH, but it does specifically say "stairs" and "escalators". It suggests 100 per cent higher for going up and 25 per cent. for going down, that is an average of 62.5 per cent.

We have made a brief assessment that about 20 per cent. of the additional walk might be in those conditions (i.e. on stairs and escalators) and then if you apply those maths to the 1.42 it increases up to 1.6.

On that basis we are minded to change our recommendation so that walk time should be valued at 1.6 times in-vehicle time. Again, we would like to hear your comments.

Slide 18 Leaving the walking for passengers, and moving on to the walking for staff facilities, this is essentially a much simpler issue. Here we are talking about costs, the unproductive time of staff, which at the margin must lead on either to the need for additional employees, overtime for existing employees, or some less output from the staff. We really just used the existing agreement and uplifted the figures by RPI for that. We felt that it was well based, well founded, and we had no more additional information on that area.

Slide 19 Important in all these is how do we estimate walk time? Again, for our recommendation we have used the existing agreement. Distances are measured quite accurately. We possibly feel that the requirement in the existing agreement to measure to the nearest centimetre is a bit over the top, but still if that is easy to do then we might as well continue with it.

Slide 20 Benchmark distances are set out in the existing agreement and then the increase, or decrease in distance is changed to an average walk time, based on an average speed.

The key changes in what we are proposing related to walk time. Three of them. The first two are definitely simplifications. The Current Agreement has some time thresholds, whereby above a certain limit the valuation of walk time doubles typically. We feel there is no real consistency with economic theory. A lot of economic theory has looked at the valuation of small time savings, it has been studied over the last 20 years substantively, and always come to the conclusion that whereas, yes, people do not actually recognise a few seconds, yet at the margin in the long term it has to have the same sorts of valuations as longer time periods.

Also, with these thresholds there was always the likelihood of volatility in the

payments, and we felt that did not help the certainty issue. So our recommendation is to simplify this and avoid the thresholds, and the figures we are producing, the recommendations, apply above and below the thresholds.

Equally, in the current regime there is a rounding up to one minute of any increase in walk time. We see no logic in this at all. It certainly introduces volatile payments. It means that if you actually increase the walk distance by 1 metre that will be rounded up to one minute, and if it is a facility used by 100 per cent. of the people that will be £ per day for one metre increase in walk distance, which seems a somewhat harsh issue.

Remember, there are already movement payments to cover the cost of things moving. That is not about that. This is actually about that we can foresee there could be arguments about "Is this really 1 metre..." or, sorry, "1 centimetre further?", because things are measured to the nearest centimetre, "Is this really 1 centimetre further, or is it not 1 centimetre nearer?"

In our regime you will be arguing about £ , or something like that, compensation per day and really I am sure you can come to an amicable arrangement about whether it is £ or £ or whatever it is. But when it is £ per day, which is well over £ per annum, there is some big money there and we feel it adds nothing to the agreement, there is no economic logic, and we recommend against that.

The third one is what we call "netting off" of benefits. Particularly when you think of the move to the interim station, and the Final station, all facilities will effectively have moved. Some will move further away for which, rightly speaking, Midland Main Line get compensation, but some will have moved nearer - it is inevitable that some facilities will move nearer. We think it is right to incentivise London & Continental to design the interim station, although I imagine it is substantively designed already, but design it to bring those facilities that are most important to passengers and to staff nearer, so that they are providing a better overall station. And, rightly so, with that we believe there should be a netting off of the benefits. We therefore believe that for passenger walk distances there should be netting off of benefits and it should be the net effect of these. We would never envisage this being to the extent that Midland Main Line are compensating L&C. We do not believe it could possibly arrive at that sort of figure, but where there are elements which are brought nearer they should be netted off against elements which go further away. This is consistent with economic theory, it provides incentivisation, and of course the compensation is directly related to the revenue loss.

I should clarify one point in my report. I thought it was clear but it was misinterpreted. When we talk about this netting off of benefits it is in the context of passenger walk distances. It is not in the context of other quality changes to the Station facilities, because we think that is a separate issue.

Slide 21 Two areas which we have excluded, and they are excluded on the basis of simplicity. The first of these is on the station congestion. Congestion clearly increases walk times. Furthermore, walking in congested conditions typically would increase the value of one minute of walk time, so the two multiply up together. Congestion is measurable, there is the Fruin methodology used frequently in designing stations, almost certainly used in designing St Pancras I imagine.

However, it is quite difficult to forecast unless you have got detailed measurements of

the passenger flows precisely by time of day, because at a station passenger flows are very peaked. As a train pulls in you get a very big peak of a passenger flow, and then five minutes later it is quite quiet, typically. The passenger flows, and the passageway widths, etc., so it is quite difficult to forecast.

Furthermore, the changes in congestion occur for a number of reasons. They certainly occur because L&C are changing the facilities, and that will be creating changes to the level of congestion. However, they can also occur as Midland Main Line, through successful marketing or other things, increase their patronage, and that will increase the congestion at St Pancras, and that is not the responsibility of L&C. It can also occur if the train timetable were changed in any way, and if two trains came in much closer together that would increase congestion, there are all sorts of reasons which are outside L&C's control.

So it is actually complex to allocate the reasons for there being change in congestion as well as complex to measure the level of congestion. If you did measure it you would have to measure it through walking surveys. We included a figure of £20,000 per annum for the cost of such surveys. I would emphasise I think that is a minimum cost. You might not feel that the accuracy of surveys done at that level was adequate. You might well feel that you needed to spend more money to get accurate surveys, but that is a minimum cost, and you will be moving fundamentally away from measuring distances which are measurable very easily and very easily agreeable, to measuring times based on surveys where there is much more opportunity for discussion between you.

So on the basis of the cost, the lack of accuracy, the difficulty of determining exactly what has caused any change in congestion and the lack of certainty, we are recommending not to include congestion in there, although we do address the issue in the benchmark review particularly.

Slide 22 The second and related issue is the Thameslink Blockade for a possible six month period during 2004, I believe - if we have that timing wrong and it is changed it does not matter for the principles. The issue is similar to congestion. In some ways it is even more complex because the impact of the Thameslink Blockade is twofold. One, it brings a large number of Thameslink passengers into St Pancras, probably leading to increased congestion, and therefore increased walking time as a result of the increased passenger flows; and secondly it means that Midland Main Line, as I understand, will be operating out of only three platforms in the interim station and this means that there will be changes to their timetable necessary. They will, of course, I presume be compensated for adverse changes to the timetable through the Track Access Regime, that is not the object of our study.

Those changes to timetable may have impacts on the passenger flows, but equally, they are going to have an impact on Midland Main Line's revenue, that presumably will be the basis of the compensation in the Track Access Regime. If we were to take the Thameslink blockade into account, we would need to take into account that change in the base Midland Main Line revenue. Suppose Midland Main Line were going to lose 5 per cent. of revenue as a result of this - I have no idea what the figure is - then that would actually be a reduction of 5 per cent. in their base revenue which would feed through to a reduction in both general damages and into the valuation of one minute's walk time to facilities, because there are fewer people walking there. That would need to be taken into account, otherwise there would be double counting

between the compensation and the Station Access Regime, and the Track Access Regime.

Against that, it is likely that walk times would be longer because of congestion. So there are things working in two different directions here, and our view is it would be very complicated to measure, to estimate, there would be a lot of uncertainty about it and we would again recommend excluding this from the regime.

Slide 23 I need to mention a specific point - London Underground - the changes to the London Underground station. Apart from the platforms and the concourse, it is the single most important facility taken as a whole. It is 63 per cent. in our assessment of the access/egress mode to St Pancras and used by a large number of people as such.

The LUL works are coinciding with CTRL works. The dates I put down here for the new Western ticket hall and the new Northern ticket hall are those dates I found in a public brochure. It may well be, as sometimes occurs, with public brochures that the real dates might be a bit later. It is possible, and quite likely, that in fact the Western ticket hall and Northern ticket hall are not constructed until after the end of this Access Agreement. If that is the case, then please go to sleep over the next four slides! You do not need to argue about it, it is not actually relevant. It is an element which is in the compensation regime which we are recommending, which we believe is needed because it might occur. If no substantive changes occur to the London Underground facilities and location of ticket halls during the course of this Agreement, then this part will not actually have any impact on the eventual compensation.

However, if those times of 2005 and 2006 are true, then it will be occurring during the course of this Agreement, and it has an impact on the walk time compensation.

Slide 24 For those of you who are not fully aware of it, and it took me some time to get there, and I hope I am now right, we have a little picture of St Pancras, the square there. X here marks the existing King's Cross Underground Ticket Hall. The Western Hall in front of the St Pancras station provides excellent access to the Metropolitan and Circle Lines, because it has, I think, escalators, directly down on to the platforms. However, for access to the deep tube lines, that is Piccadilly, Northern and Victoria Lines, which is the bulk of the passengers, access is via the existing ticket hall and the existing escalators. So it provides nothing for those passengers.

The converse, the Northern ticket hall provides excellent access to the deep tube, the Northern, Piccadilly and Victoria Lines, but for the Metropolitan and Circle Lines access is via the existing Ticket Hall, so it provides nothing for those passengers.

It is important to bear those issues in mind as we go on. The Northern Ticket Hall, of course, is well located for the interim concourse, and provides a much shorter route from the interim concourse to the Northern, Victoria and Piccadilly Lines.

Slide 25 What we have as the likely scenario of changes is we start off in the top left hand corner with Midland Main Line in their current location, and LUL in their current location. There may yet be compensation payments required at this stage, because the walk route between them may be changed, and indeed it has already been changed, and so I would imagine that there is compensation being paid under the existing agreement for increased walk to London Underground, and that is right.

The next change that is likely to occur is Midland Main Line move to the interim station and then there is no question the benchmark remains the same, with LUL in their current

location, and there will be some substantively increased payments, because of the substantively increased walking times.

The final change is that it may be, of course, that Midland Main Line move to a final location. It does not really matter here, but we have looked at the case where the LUL new ticket halls are opened, Northern and the Western, and there may actually be a phased bit of this because they said the two may quite likely open at different times.

The question is what benchmark will give the correct compensation here? I think the issue is not very clear if you look just at that diagram. Therefore, what we tried to do was to imagine what would have happened had those changes occurred in a different order, i.e. if the LUL new ticket hall been opened first before Midland Main Line's interim station. We know this will not happen, but clearly the level of compensation should be the same which ever route you go to get to the final position.

Slide 26 So we add in here, this dotted line, the scenario where Midland Main Line in their current location with a new LUL ticket hall We would suggest that that is the change of LUL and therefore we would not expect there to be any change in compensation, subject to the existing walk routes continuing etc.

Slide 27 So we would suggest that there should be no change in compensation, but that does mean to avoid a change in compensation there do need to be some new benchmarks put in place which effectively avoid that change in compensation, and they will be set at a level to avoid that.

Slide 28 Given that, we come to the conclusion that when the only change that is occurring is Midland Main Line moving, as it is now on the right hand side, moving from Midland Main Line Current to Midland Main Line Interim, that the correct benchmark to use in the final place is the new benchmark (i.e. the same as at the top there to derive the correct level of compensation). That was the longest part of my presentation: the issue of the walk distances.

Slide 29 Moving on to the non-provision of facilities. Clearly again if facilities are not provided, they should be valued in relation to their importance, and this is, broadly speaking, proxied by the usage figures. We decided there was a lot of merit in keeping consistency between the walking compensation and the non-provision compensation, and therefore in general we estimated the usage figures from those implicit in the walk times.

I should just put a caveat on that. There are certain facilities, a small number, where non-provision might force station closure. This would incur full daily revenue payment. I think those might include things such as there being no access by emergency services to the station when it might be required to close on safety grounds. If there was no electricity at the station I cannot imagine it actually being able to continue to operate - issues like this, and I am talking about ones which actually do close the station.

When I say "full daily revenue", we would apply that pro-rata for that period of the day which the station is closed. If it is closed for an hour, it would not necessarily be the whole day.

For most facilities non-provision has been estimated at equivalent to about eight minutes walking time. How did we arrive at the figure of eight minutes? Really three approaches to arrive at eight minutes, all of which came out with something of the same order. One was actually a sort of internal feeling that really very few people will actually walk more than eight minutes to get to a facility, given that we are in London, there are other facilities

around - King's Cross, Euston, other locations.

Secondly, it appeared, broadly speaking, to be the ratio that is in the existing agreement, and thirdly, we looked at a very few limited elements in the Passenger Demand Forecasting Handbook where there was some usage figures for facilities, and valuations of facilities in the Passenger Demand Forecasting Handbook, and this seemed to produce the same sort of figures, so it was eight minutes. In a few cases, and I think we have been explicit, (I think there were one or two small errors in what we presented in our report which we will be correcting in the final version.) we have used a different figure to the eight minutes. For example, seating on the station - we felt if somebody really wants to sit down they are probably the sort of person who does not actually want to walk nearly so far and therefore we have actually reduced that figure.

Slide 30 For the staff facilities, as we included the same as in the Existing Agreement for walk time we have done the same for non-provision of facilities.

Movement Fees and Liaison Costs are part of the existing agreement. They are relatively small numbers. There was clearly a disbenefit to passengers and staff from relocation of a facility. There is uncertainty on behalf of both passengers and staff, and for the staff there are training issues, and the cost of signage. We felt we had no basis on which to change the figures in the Existing Agreement, so we have continued with them.

Similarly for the Liaison costs, which are the costs, I understand, of a manager and an assistant, we have again included those as in the Existing Agreement.

Slide 31 The last item of the compensation regime is the general damages - general damages due to the station environment. This is quoted in the Existing Agreement "as a consequence of general building site effects (e.g. noise/dust)".

We try to interpret what this really meant. We see this payment capturing the effects of noise and dust clearly, but we also felt, e.g. noise and dust must cover visual intrusion as part of the general building site effects. It is quite noticeable, even today, at St Pancras that there are hoardings up, and Portakabins, and that is the sort of things we felt were covered under "visual intrusions".

Slide 32 What we felt it did not cover, as a generality, was change in the quality of facilities, or the loss of opportunity to develop - two issues that have been raised by the two parties. The change in the quality of facilities - the normal process is that a Train Operating Company would request an improvement in certain facilities, and these would be provided by the owner with an agreement in advance to increase the long term charge as a result.

First, Midland Main Line has not requested such changes, and secondly, of course, this study is, as I said, about compensation under the station access regime, and not about the long term charge.

The one area where we have taken some account of the change in the quality of facilities is where it impacts on the visual intrusion of works. We have attempted to estimate the overall impact on visual intrusion of the combination of both the works and the change in quality, because we felt that that was right in terms of the balance.

Opportunity to develop. There is no provision in the Existing Agreement to address this issue, despite the fact that St Pancras station is, I think most people would agree, poorer than most London termini, and certainly the statistics shown in the National Passenger Survey imply

that passengers felt very much the same.

However, to my knowledge no specific plans were ever made to develop the station . We cannot include the value of some hypothetical state with some hypothetical improvement in there, because what level would you assume it?

Finally, and probably most importantly, it would be wholly contrary to the standard way compensation is treated in this country, and probably throughout the world. The comparator might be if you imagine I own a house and a garden and a motorway is going to take some part of my garden, I could hardly claim in compensation that I had actually intended to build a granny flat on that piece of land, and I was likely to get planning permission for it, although I had not actually applied for it, and therefore I require compensation of this granny flat I have not yet built. It did not seem to us that that would actually stack up in many public inquiries, as a claim for compensation, so we really do not feel that there can be a claim for lost opportunity to develop.

Slide 33 So having excluded those items we are back to the station environment. The question is what evidence is there in two areas? One, the valuation of station environment, and secondly, the change in the station environment.

In terms of the valuation, the Passenger Demand Forecasting Handbook contains regrettably little guidance on this. What it does say is that between 1 and 2 per cent. of fares for departing and interchanging passengers is attributable to cleanliness. Now, cleanliness is not the same as noise, dust or visual intrusion, but is the nearest thing in the Passenger Demand Forecasting Handbook to those three items.

In terms of the change in station environment, there is little evidence to support significant increase in noise or dust. The observations that is visual, oral and nasal have indicated that the station is inherently noisy and polluted, as a result of the use of diesel traction. Secondly, the results of the L&C noise and dust survey do not indicate any substantial increase and do not indicate that there is likely to be huge amounts of future increase, though I understand that this is debated between Midland Main Line and L&C to some extent, and MVA would not claim to be experts on the noise or dust issues.

As a result of this, however, we feel that the calculation of general damages should be based on the following calculation, as we put in our report, although we have slightly changed it. We have taken the 1 to 2 per cent of fare, and we have made an assessment that 25 per cent. is for visual intrusion which, in the context of St Pancras we might have been thinking about 50 per cent. for noise, 25 per cent. for dust, 25 per cent. for visual intrusion, the basis of those figures some place in some ceiling somewhere probably, it has no fundamental basis in statistics and observation.

Anyway, taking the mid-point of 1 and 2 per cent, that is one and half per cent., and taking 25 per cent., this results at .375 per cent. of the fare for departing passengers. There are no interchanging passengers to any extent at St Pancras - this is passengers interchanging within the station. I suppose there are some people who might come down on Midland Main Line to St Pancras and go back to Kentish Town, or something, in the scenario where you had the Thames Link Services diverted into St Pancras, but essentially there is no interchange occurring there, so it is .375 per cent. of fare for departing passengers. This is of the fare they are willing to pay. You need to apply to this a fare elasticity, and we had applied the value of 1

in our report. Following the representations we have seen, we think it is right to reduce this to .95, which comes down to .356 per cent. of revenue of departing passengers.

However, we have rounded this up to make some small allowance for noise and dust. Although there appears to be no negligible amount, it must actually be to some degree worse. We have rounded up to .4 per cent. This is actually a rather higher rounding up than it was previously because we have come out with the same figure to balance it out. Frankly, it is a small amount, it is rounding up. We think to put this at .38 per cent. would be a level of accuracy which is totally spurious in this calculation.

So we have assessed the total general damages at .4 per cent. of departing revenue, which is equivalent to .2 per cent. of total revenue through St Pancras.

Now looking at the particular locations, we have assessed that to be the right figure for the existing train shed where it has been assessed. If I can jump to the bottom one, the final location, what we have suggested, and representations we have heard indicate is that the final one, the likely overall quality of the finish there will balance out with the residual...there will be some residual loss or visual intrusion while the works are going on but it is likely to be relatively short, and we feel the balance there indicates that that should probably have the zero impact for general damages once the final location is achieved, provided it is properly fully fitted. If Midland Main Line have been moved there and they are still fitting it out that is a different issue.

On that basis, for the interim location, where clearly there are some quality improvements, it is to some extent further away from works and noise and dust, and visual intrusion. We feel it should be somewhere between nought and .2, and it is on that basis we chose .1 per cent.

Slide 35 My final slide is an assessment of the overall impact of the proposal. I must state this is only an assessment and estimate. We do not know what the distances are. We have not sought to measure them with any level of accuracy whatsoever. This is an assessment of the overall impact of the proposal on the basis that it moves from the current location to the interim location with LUL as now. Then LUL ticket halls are new, and then the final location is moved.

Again, if the changes occur in different orders, if the LUL ticket halls never occur then that line is completely irrelevant.

Our assessment, adding the lot together we have estimated in the Current location about £ worth of walking distance, of which £ is to London Underground. That £ includes some netting off potentially but not much. A total of about £ , which is rather less, I think, than is being paid currently under the existing agreement.

However, on the move to the interim location, there is a very substantial increase in the LUL payments. I should say these figures are different than those in the report and the reason they are different is because we have adjusted the figures for walking distance to take account of the factor of 1.6 rather than the factor of 2, so they are a bit lower.

The substantial increase in walking to London Underground results in a very much larger compensation package, and these are annual figures - although it does not actually seem to say so on the table and I apologise for that - annual figures, except for the movement fees which are, of course, a one-off cost occurring when it is moved.

We also imagine that there will be an increase in walking fees to facilities in the interim

location although we have no real evidence for this, we just imagine there will be some. The actual payment will, of course, be on the emerging distances.

When the LUL new ticket halls are built it substantially reduces the walking distance from the interim location to the Piccadilly, Northern and Victoria Lines, as a result there is a substantial reduction in the walking distance to London Underground. Whether it is as big as we have made, or even bigger, we cannot be absolutely certain, because we cannot measure those distances yet.

The final location results in rather larger walking distances the other side of the station and hence a rather higher total compensation payment.

And that is the end.

THE CHAIRMAN: I recognise there is quite a lot to take in there. Even though the ground should be familiar, some of the figures have changed, and some of the points are different. What I would like to suggest is a comfort break, but also if it would be helpful we could break for 15 minutes or so, if you would like to ponder on what you have just heard and leaf through the slides before we come back and start asking questions of each other. Would that be acceptable? OK. There is coffee, so if you want to retreat to the rooms that is fine, or if you want to stay here that is fine.

MISS KELLY: Sorry, could I just ask, 15 minutes - is that enough, given that ----

THE CHAIRMAN: Well, sorry, what would you like?

MISS KELLY: Half an hour, I think, between comfort break and actually talking - if Midland Main Line are in agreement.

MR WILSON: I am happy with 12 o'clock, that is perfectly acceptable.

MISS KELLY: Thank you.

THE CHAIRMAN: Fine, we will be back in there at 12 o'clock then.
(Short break)

THE CHAIRMAN: I hope that has given you a bit of time to reflect on the things that were in the presentation. The way we intend to run the next section, is to run through the issues that are on the agenda that we have handed round. What we propose to do is to take them in turn, starting with David and John raising the particular points that we think we need to air after my discussions with you and our reflection on your questions, and then after that we will take any additional points, or any additional questions you wish to put to us, to MVA, or indeed if you want to make observations or debate points that have been raised amongst yourselves. We will try to work through the list of issues that we have here, which is the order that came up in the presentation. We had the presentation in that form because we can go back to individual slides if there are points you want to pick up relating individual facts, figures or matters that MVA have raised.

That is what we plan to do. I also plan to check quite how the stamina is going just after 1 o'clock, but if we can go through to half past one, I think that will be good.

I am now going to hand over to David.

MR CHAPMAN: Thank you. If I can just say, in terms of structuring the questions, when you are asking a question - particularly the first one or two questions you ask - can you please state your name and where you are from for the purposes of the stenographers so that they can get used to your voice and then they will recognise you when you speak later on.

The first head of questions that we have is about the purpose of the compensation regime in the station access contract. Now if you look at a station access contract you could talk about its purpose as falling into three key areas: it is providing access to a train operator so that passengers can get to and from the operator's trains; it determines the quantum, level and standard of services and facilities that those passengers will receive at the station; and it incentivises the facility owner to provide those facilities and services to a particular standard determined in the contract.

I want to go back to a point that Alan Wilson made at the beginning, saying that the existing contract has been successful I wanted to understand a little bit more about both parties' perception of that success, and how you have actually measured that success. So looking back at the existing contract what is that success? What do you mean when you say that it has been successful, and how have you assessed that? Since it was Alan that raised it initially, can I put that question to Midland Main Line first, please?

MR MARSHALL: Overall we think that Schedule 4 has operated successfully since the CTRL implementation date. There have been one or two glitches concerning the interpretation of how the clauses were meant to work, but we have worked alongside London & Continental in coming to a satisfactory conclusion on each of those occasions.

I think we can measure the success of the agreement by the fact that, first, there have been no formal disputes raised. We have not had to resort to the dispute resolution procedures that are set out in the agreement, and I think that is a fair indicator (a) that the contract works; and (b) that the parties have done their best to make sure that compromises, when required, have been made.

I think perhaps we ought to reinforce that both parties have co-operated in providing a degree of flexibility in the interpretation of Schedule 4 when it has been necessary.

Secondly, there is no doubt in our minds that we have been able to operate our train services and get our passengers in and out of St Pancras Station, as you rightly point out, as the agreement intends.

I think it is possibly not for us to say, but we would imagine that L&C have been able to carry out the CTRL works that they are contracted to do at St Pancras station with a minimum of fuss from Midland Main Line as a user of the station. It is perhaps worth bearing in mind that the station access agreement is set out such that London & Continental do not have to come to Midland Main Line for a contract change, as perhaps you would under a normal station access agreement every time a piece of work needs to be carried out. So as envisaged in the agreement, L&C have had the freedom to carry on their work.

For us one of the main planks of the agreement is to ensure that there is sufficient incentive on London & Continental to ensure that they comply with their obligations and that facilities are provided and that where facilities are not provided Midland Main Line is fairly compensated for that. We think the access agreement in its current form has been successful in ensuring that the majority of facilities have been provided where we would have expected them to, where we can work with them, and we think that is probably a success.

We could perhaps point to one instance - there was an incident going back now concerning a pick-up and set-down point for passengers at St Pancras where we feel that had the present format not been in existence there might have been a temptation for L&C not to

provide that facility, but the format of the agreement, such as it is, ensured that that was the case and it was provided.

We therefore see little reason to change what we think is a workable agreement.

MR CHAPMAN: Thanks for that. If I can just reverse the question to you before I go to London & Continental, are there any elements of the existing agreement that you would say have not been successful? I understand there have been one or two little niggles, but any specific elements that you would point to?

MR MARSHALL: I do not think there are any specific elements that have not worked. The agreement was, I suppose, I do not know whether "ground breaking" is the right phrase, but we were not aware that this had ever been done before, so in designing the agreement it was done in such a way that we tried to cover every possible scenario and outcome of the CTRL works from the station being closed through to the station being moved to outside of its current area, into the interim station area. In that process it was inevitable that the theory did not always quite work out in practice when we came to calculate levels of compensations for certain facilities. However, we came to an agreement with L&C and we have a sound basis for moving forward, and continuing on the basis that we have agreed between us.

MR CHAPMAN: If I can switch across to London & Continental then. Do you share Midland Main Line's views of the success of the agreement, and are there any particular areas of the contract at the moment that you would point to and say: "This is less successful"?

MISS KELLY: I agree with Jonathan in the sense that the principle of compensation works. There have been complexities with the calculation and there were some differences of opinion at one point as to what exactly was the basis. I think it is no secret that the only dispute that we have with Schedule 4 at this point is the amount that has been paid, and it acts as a perverse incentive. I do not think there is any evidence on Midland Main Line side that in the event if we have not had to pay compensation we would not have been providing the facilities, because the contract, the CTRL Project has always sought to accommodate as far as possible, Midland Main Line. We have fully consulted with them, in spite of the fact that we are paying out substantial sums of compensation because we cannot avoid the movement of facilities. We pay that out and accept that, but we feel the amounts are disproportionate. We fully believe that. We have gone above and beyond the minimum requirements of the access agreement - and I think that has to be acknowledged by Midland Main Line - the provision of facilities such as the First Class Lounge, and where possible to ensure that their corporate image is branded throughout the station. We have consulted with them on the interim station, and that has not been incentivised by the existence of the compensation regime. We have an obligation to Midland Main Line, the access agreement covers that. The compensation does not necessarily make any difference to how we actually liaise with them. We have a consultation policy with all third parties that we have to liaise with, so I would dispute the value of Schedule 4 in terms of the amounts that are contained therein. We do not dispute the principle of compensating Midland Main Line where they can indicate loss or a disadvantage to them - that has never been the dispute on our side.

MR CHAPMAN: You mentioned perverse incentives a few moments ago. Can I just go back and ask specifically what perverse incentives you think the existing Schedule 4 sets up?

MISS KELLY: [Pause] Sorry, having consulted with my colleagues, I should have known offhand -

- well I suppose in the event that if something is moved closer or improved there is no actual compensation factor against that where we reduce the compensation payable to Midland Main Line. We end up having to pay, irrespective of whether something is moved closer once it is moved. That is all I can really offer, unless one of my colleagues can throw in....
- MR CHAPMAN: OK, thank you. Unless there are any other questions from the table here, I am not aware of any specific questions that either party wants to raise under this heading. Are there any points that you want to raise either with MVA or with us at this point? If not we will move on to the next heading.
- MR SURMA: Although I do not have a question, is it possible to make a comment at this stage?
- MR CHAPMAN: Yes.
- MR SURMA: When Mary was talking about consulting Midland Main Line, we do wish to emphasise, as a matter of record, that London & Continental are obliged to consult Midland Main Line under part 18 of the St. Pancras station access conditions. Part 18 and the compensation go together. London & Continental consult, but do not have to abide by what Midland Main Line say, and hence the compensation regime.
- Thank you.
- MR CHAPMAN: The next head that we have is "Methodology". We do not have any specific questions from ORR, but I believe that the parties have some points that they may wish to raise in this respect. Can I turn to Midland Main Line first and invite you to put questions?
- MR WILSON: Can I just start out by saying that there are a number of questions here, I think we have outlined two, and certainly some have come up in the course of the presentation. I will probably start off by passing to Meena if I may, but I know other colleagues have got specific questions about the methodology used both by the MVA report initially, and also following the presentation. I will pass to Meena in the first instance, if I may.
- Thank you.
- MISS NAIDU: This one is for MVA. We would like to ask the degree to which MVA considered Midland Main Line's response to L&C's representations?
- MR SEGAL: I know the representations came in quite late, but we were doing the whole thing under a time pressure. We looked thoroughly at those representations, and we believe we took them into account fully. Is there any particular representation you felt that we had not taken into account?
- MR WILSON: I think it is difficult for us to understand fully just what you have taken into account without seeing the core of your report and the final version, and indeed how you have taken some of those things into account in the absolute calculation. I think we recognise that some of the changes that you have made respond to our direct points, but it is difficult for us at the moment to understand just exactly where you have taken them into account and not, and without going into the detail of our representations then it is obviously a difficult matter. I think in the course of the next debates, as we go on, we will try and pick up one or two points where we have made a point, or where we would like to challenge some of the assertions that you have made during your presentation. I think it is very difficult here in the overall methodology section to say anything more.
- MR SURMA: As a matter of record, I do apologise, but the Midland Main Line response was actually timed to follow the L&C representations. It was produced on 17th December, prior to

the date of 19th December when it was due to go in. So I just want to clarify the Midland Main Line response was not late.

MR SEGAL: No, no, I was not suggesting it was late. I was suggesting there was not a lot of time between that and us producing our draft report, yet we did take the comments into account.

MR SURMA: There is one aspect of Midland Main Line's response, if we could just –clarify and that is whether you did take into account, our comments in the response in relation to the interim station?

MR SEGAL: I presume we are talking here about the quality of the interim station and the issues relating to that. What we had was responses from both Midland Main Line and L&C on that issue, and those responses showed a difference in understanding of what the overall quality as perceived by the passengers would be of the interim station. As a result, you can either say we took into account both of them, or we took into account neither of them, and we did not give either of them more weight than the other, but we took an assessment of what we thought it was likely to be.

MR WILSON: Thank you. I think we will be discussing the interim station in more detail later on. The other aspect, sorry, in relation to the interim station and you taking into account was the Midland Main Line proof, in our response, that the interim station was something which had been envisaged when the Existing Agreement had been negotiated.

MR CHAPMAN: London & Continental, you have some questions?

MISS KELLY: As I mentioned earlier, we have plans and documentation which indicate that this was not the basis for the agreement at the time. I know there are some minutes apparently that allude to the interim station, but it certainly was not envisaged that MML should use it in the planning that I have documentation for.

MR CHAPMAN: Will you let us have that documentation?

MISS KELLY: I will, I have it here today.

MR WILSON: By way of response to that David, I think there is a difference between us. We too can present plans that we have with us today, and the minutes of the meeting that allude to the fact that there was envisaged a move by Midland Main Line to an interim facility and indeed shown on the diagrams. There is a difference here between us - we do accept that.

MISS KELLY: Do you have the plans with you today?

MR WILSON: Yes, we do, we have them dated in 1995 showing the various stages of movement to and from the interim station and indeed the minutes that go with them.

MR CHAPMAN: Thanks. I understand that there is a difference of view between the parties here. We will review the evidence that you have got and we will draw our conclusions from that. London & Continental, do you have any further questions under this heading?

MR SEGAL: Can I just respond specifically to the issue of the interim station issue? Our recommendations were based on the economic principles, and they would not change, depending on the outcome of the debate between you about whether it was included in the existing agreement, it would not change our recommendations. It may, of course, change the Regulator's view on the issue.

MR WILSON: Can I respond to that? We understand that that may be the case. I think what it really boils back down to is the debate about the interim station, and the overall time period and the discomfort and the disbenefit under general damages that Midland Main Line will suffer

during this period as to whether it was ever envisaged that we were going to have to make these three moves, and we do contend that that overall picture was part of the original agreement and part of the general compensation and damages to this business over the whole time period of the works. So I think that is why it does form a part of our argument.

MR CHAPMAN: Further questions from London & Continental?

MISS KELLY: If I can just add to that final point. At the heart of our argument about the interim station is that at the time of the agreement there was an assumption about the levels of compensation that would be paid out to Midland Main Line, which is why a general damage sum was reached. The reality is as a consequence of the interim station our compensation bill is considerably larger than might have been anticipated, and this is despite the fact that Midland Main Line have been removed from the thrust of the construction work, and they are going to enjoy a spanking new station. Even if they describe it as "Portakabin City", it is light, it is airy, no pigeon droppings.

Thank you.

MR CHAPMAN: We will pick up the quality of the interim station later on, but do you have any further questions on the methodology?

MR MAYNARD: Yes, we do. I have some quite specific questions on their methodology. It might help to have the relevant slides up. The first one that I wanted to look at was slide 15. The second statement down there that the "impact of a 1 minute change in GJT = 1.074 per cent", I would argue that by inspection this figure must be wrong. The reason being that it is most unlikely that the elasticity is more than one, and the implication therefore that the GJT is less than 100 minutes.

To get a figure of more than 1 per cent. the GJT must be less than 100 minutes. Now, that is manifestly not the case, because, if you take 100 mile journey from London to Leicester, taking a journey time of 69 minutes - you can argue the odd minute here and there - there is an interval penalty to be applied because the service is half hourly, which we would take probably about 23 minutes, but, of course here we are looking about access to the station. So we are looking at not just the journey from, say, St Pancras to Leicester, we are looking at the journey, let us say, from an individual's home in Leicester to this office here, because this minute is about access to the stations, it is not about actual journey time. Therefore there must at a minimum be two interchange penalties added to the GJT equation. The figures for a journey of this length imply the interchange penalty is about 40 minutes, so we are already well over 100 minutes. Therefore, assuming the elasticity is less than one, and I would argue it must be for a journey of this length, it is most unlikely that elasticity is more than one, the impact of a one minute change must be less than 1 per cent.

MR SEGAL: When Passenger Demand Forecasting Handbook talks about elasticities to generalised journey time, it is specifically taking into account only certain elements of generalised journey time. It is taking into account the actual journey time, the frequency penalty, and interchanges which occur between the originating station and the destination station. It does not take into account access or egress journeys or any interchanges as a part of those access or egress journeys.

Therefore, the figures which are correct, and it is only on that basis that the elasticity is a little bit less than one, perhaps about 0.9. If you include other elements in the generalised

journey time, for example, the access and egress journeys, it is clear that the elasticity to generalised journey time will be considerably greater - there is nothing magical about elasticities being greater than one, they quite frequently are greater than one in certain circumstances.

The figure came out of the MOIRA runs that we have seen, we believe them to be correct, and it seems to me to be about the right order of magnitude because, as you rightly said, on the basis of generalised journey time, the example you gave, I think the generalised journey time worked out at about 90 minutes, as your typical example, which means I would expect the effect of a 1 minute change to be about 1 per cent.

MR MAYNARD: But your base is wrong, because this is access time, not the actual St Pancras/Leicester journey. The wider question of access, because this is about access time, e.g. the GJT for the extended expression of journey from your home in Leicester to, say, this office, is bound to be considerably greater than 100 minutes.

MR SEGAL: I agree the GJT is bound to be considerably greater than 100 minutes, and also the elasticity is bound to be considerably greater than 1, because the elasticity has to be increased pro-rata that element of GJT, because the evidence on which the elasticity was based specifically excluded those items.

MR MAYNARD: I still think your figure is too high because I would have expected a one minute change over, say, a 200 minute GJT journey, even if the elasticity was over one, to still come out at less than 1 per cent., because you are implying the elasticity is close to two - that is a very high figure.

MR SEGAL: In this context this is quite possible, yes, it is quite possible for elasticities to be as high as five, there is nothing magical about the figure of one.

MR MAYNARD: But the question is: "is it likely?"

MR SEGAL: Yes, I think it is quite likely. It is well known that when you include access elements for rail journeys, which can be very, very substantial, then it is well known that the elasticity will become much, much higher, because the elasticity that is calibrated and it is usually reckoned to be slightly less than one, is the elasticity just on the rail journey element itself, excluding the access, and that elasticity will go up pro-rata to the extent to which access is a part of the overall generalised journey time.

MR CHAPMAN: Can I come in here? I am conscious that we do need to get through the agenda during the course of the day. This is a point, clearly, of a difference of view or interpretation of PDFH methodology. If London & Continental have residual concerns on this can I suggest that you put a note to us in writing early next week so that we can take it into consideration.

Do you, London & Continental, have further questions under the methodology heading?

MR MAYNARD: I am afraid so! I will try and be brief.

THE CHAIRMAN: Thank you.

MR MAYNARD: Relating to slide 16, where you give an example of walk time calculation, (and I appreciate this is purely an illustrative example) what evidence have you got for suggesting that walk time that does not constitute part of GJT viz. walking to a refreshment room, or a catering facility should be valued at the same rate as walking time that does contribute to GJT?

MR SEGAL: I certainly agree with the implication behind your question that the evaluations of

walk time are done principally in the environment when the walk time is an element of an actually specific journey. In fact, the particular example of the train departure board here, probably is, because if you do not go to the train departure board before joining your train you might get on the wrong train, but I take the case, there are other elements - going to get a cup of coffee which is not a part of that.

The question which arose then is: what valuation should you put on this? I did discuss this with several colleagues because there is not much evidence of it. We all felt that the best estimate is to put the same value as another walk time, although we recognise that the evidence for this is weaker.

MR MAYNARD: I would submit that the evidence is actually very weak. You might argue that the rationale for visiting the refreshment rooms, or the book stall is actually because the disbenefit of wait time is seen to be much higher for an individual than walking and it is just something to fill in time, so a lower value ought to be placed on it.

MR CHAPMAN: Thank you. Any further questions under this heading?

MR MAYNARD: Yes, I have one final question which relates to slide 17. Slide 17 shows, on the penultimate bullet point, that higher values for stairs and escalators should be used. This is quite true, but bear in mind that in calculating the walk time we have already made an allowance within the walk time calculation for the extra time. There is a risk here of double counting.

Secondly, all the extra walking time that this relates to is actually on the flat, because the new regional station is actually at the North end of the St Pancras train shed and what actually passengers are having to do to reach the facilities underground, or the buses, is actually to walk the length of the train shed. This is all walking on the flat.

MR SEGAL: I certainly do not believe there is any double counting. The PDFH is quite clear that when you are increasing those valuations of walk time it is an additional item. The issue of whether it is on the flat is perhaps something we would actually wish to look at and examine the plans in a bit more detail, and if there is some agreement between Midland Main Line and L&C to the extent to which it is on the flat and the extent to which there are stairs or escalators, or particularly congested areas included, I think that is an issue where there is a point.

MR MAYNARD: Sorry, I was not implying that I thought the PDFH was wrong. I was saying that the walk times that are in the agreement already have a weighting for stairs and escalators. That was my point. So effectively the weighting has already been taken into account in the presentation of the existing walk times.

MR CHAPMAN: Thank you. If there are no further points, I would like to move on to the next heading, Midland Main Line?

MR WILSON: Could I just make a couple of points by way of response to Geoff. I think it is fair to say that we understand the interim station to be on two levels, so there are staircases, etc. involved in the first instance; and secondly, although we may have a difference in the way that we have come to the result in the detail, we do accept that 1.6 is a fairer and more accurate representation of the walk time situation, as concluded by MVA. When we get down into the minutiae of the detail, we may have a difference between us but we do accept that from the overall standpoint that the 1.6 is a fair valuation.

MR CHAPMAN: Thank you for those points. I want to move on now, and I want to ask the parties what assumptions they made about the compensation arrangements when L&C were entering into the CTRL concession and when Midland Main Line was entering into its franchise, and its franchise extension. Can I go to London & Continental first with that point, and ask you what assumptions you made, in particular about what would happen at this point when the existing contract is coming to an end.

MISS KELLY: We assumed that we were obliged to go forward on the basis of the current agreement - I was not party to that, I was not present at the time, so I can only go on hearsay. The assumption was that we would be able to renegotiate the terms as long as, according to the Development Agreement Midland Main Line were not substantially disadvantaged as a consequence.

Now, our view point was that at the time of the agreement, and I am reiterating a point that has already been made, and I am sorry if I am just droning on about it, the interim station did not exist at the time of the concession arrangements, and our argument is - and has always been - that they are not disadvantaged, because they have actually been moved away from the main thrust of the construction work. So, although they will end up with a smaller payment, assuming that we can renegotiate or get an agreement on reduced compensation rates, they are no worse off, unfortunately I cannot state categorically that it was not assumed that we would have to carry the can, but the budgets indicate that it was assumed that only general damage, plus a small amount of facility compensation, would be payable.

MR CHAPMAN: Midland Main Line, the assumptions as regards your franchise and the extension?

MR WILSON: Yes, thank you. National Express, the franchisee, together with ourselves, Midland Main Line, entered into the franchise agreement and subsequent extensions on an assumption that the compensation provision in the station access agreement would apply for the whole of the CTRL works in relation to London St Pancras. We took the view at that time that L&C entered into its concession agreement taking into account those compensation payments at the rates payable under the station access agreement.

MR CHAPMAN: And knowing that the Current Agreement expired in 2003, did you think about where the risks were? Did you approach either London & Continental or the Regulator to think about how those risks might result in a different sort of agreement?

MR WILSON: When we were building up our budget process and our longer term business plans in this area, we made the assumption that the current levels would continue. That was based on two or three points.

First, at the time that seemed a reasonable assumption given that we had grown our revenue quite considerably but we did not feel that it was fair to go back looking for more compensation to our business. Secondly, more on the basis that we had little else to base it on, we had approached London & Continental some several months before this thing came up, and really we had no core reason to assume that L&C were going to take other than that view on the compensation.

MR CHAPMAN: Thank you. We have a further question.

MR THOMAS: I would like to ask Midland Main Line if they can explain why they think the compensation arrangements that have been proposed by MVA would not enable you to plan

your business with a reasonable degree of assurance, which you suggested in your response to the MVA Report?

MR WILSON: John, if I may, I think the core of this is that we have assumed in the taking on of our franchise, and recent amendments, that this level of compensation would be appropriate. I do not dispute that, given a ruling - whatever that may be - on this particular occasion, that we would be in any different position from that point forward. I think the core is that we did assume that this level of compensation was available to us during the life of the CTRL works. I do not dispute your point about the surety going forward.

MR CHAPMAN: Thanks. I am not aware that either party wishes to raise questions under this particular heading, but if there are any points that you want make, now is the time to do so.

MR SURMA: We are not clear whether it is under this heading, or perhaps the previous one, but one question we were going to ask the Regulator in this respect was for confirmation from yourselves that there is no impact on the station access agreement continuing in relation to the CTRL Development Agreement?

MR CHAPMAN: We obviously are aware of the Regulator's duty under the Channel Tunnel Rail Link Act, and we will be giving due consideration to that in making our conclusions.

MR SURMA: If I may ask, is there any opinion you have so far in that respect?

MR CHAPMAN: I am sorry, Roman, this process today is about flushing out and discussing . We are not at a point where we are telling anybody even if we have tentative conclusions in a particular area. We have not made our decisions. The Regulator has to make his decisions in the light of all the evidence that he is collecting, and this hearing today is part of that process.

If we can move on to base level of revenue. John?

MR THOMAS: Again, I would like to ask Midland Main Line, you state that the assumed revenue in 2003 is - which MVA have used in their compensation calculations - represents an underestimate given that the actual figure for 2002 is likely to be in the region of .

Could you please confirm what the outturn revenue figure is for 2002, and what your best estimate is for 2003, please?

MR WILSON: Certainly, John. Midland Main Line have just concluded its financial year which for us is a calendar year and our revenue was £ . Using the St Pancras weighting, if you like that equates to £ during 2002. Our budget assumptions for 2003 differ slightly from MVA's estimates of growth, and are actually per cent. for the forthcoming year. MVA, I believe, used 10 per cent. in their estimates. So, dependent upon which estimates of growth you use, and ours are per cent., then you can calculate multiplied by that factor. So it is nearer in our opinion to £ , based on St Pancras, for 2003.

MR THOMAS: Thank you. Can you, very briefly, just explain what the basis of your per cent. growth assumptions are?

MR WILSON: Yes, we can. When putting the budget together we have made assumptions in the order of just over per cent. in pricing for 2003, and in the order of per cent. for growth. I have, and I am happy to share with you, the figures and statistics that go behind those assumptions, should you so wish.

MR THOMAS: I think it would be useful if we had those on record, yes, please.

MR WILSON: We will make sure they are handed over.

MR CHAPMAN: Thanks very much. I am aware that London & Continental had some points

under this heading. I think some of them may already have been covered, either in the presentation or questions and answers. Are there any particular points you want to pick up here?

MISS KELLY: Just on that point, and a number of points have been raised by us on that, but what I find intriguing is that Midland Main Line on the one hand are claiming a loss has been suffered, and yet they seem to have enjoyed what I would regard as a very good growth indeed, given that they have been in the middle of the development works at St Pancras for some time now.

Another thing I am intrigued by is that in discussions with Midland Main Line they have pointed to a loss occurring against a forecast. With the best will in the world, forecasts can go wrong, and if someone forecast incorrectly I find it a bit strange that they would try and attribute all, or part of that, to one component of what might have been a contributory set of factors. That is all I really have to say. Thank you.

MR CHAPMAN: Does Midland Main Line want to comment on that?

MR WILSON: Yes, please, I will do that very generally. The works really have only just begun as you know, and I am not sitting here today saying that London & Continental works have had a huge great impact on Midland Main Line, other than which we have already claimed.

Secondly, the "loss against forecast" point that was made was our predictions for 2002, before the last three months of the year were at £ for the year. We actually came in at

. So the factor that we are talking about here in the forecast was attributable to three very poor periods, as probably recognised in the industry, of poor performance due to the Autumn period this year being pretty spectacular. So I think that is the sort of order. Forecasting is not an exact science, as I think Mary is alluding to, but, as I have explained, that is the basis on which we are going forward for 2003.

MR CHAPMAN: Thank you. Mary, you have another point?

MISS KELLY: I just want to come back on a point that Alan has made about the works at St Pancras station. In fact, they have been going on since 2001. We tore up the forecourt - or rather London Underground did - and the subway to London Underground has been closed since August of last year. In spite of the fact that he, by his own admission, is saying that it has not had a huge impact on their business, we have actually paid them in the order of some per annum [] and that is going to go up; that is the basis of our argument. We want a compensation regime which at least comes close to the damage they are suffering to their business.

MR CHAPMAN: Can we move on to walking time. We have some questions

MR THOMAS: Another one for Midland Main Line - I promise they are not all for you! Again, in your response to the MVA reports, you have asserted that the regime imposed by MVA will increase the complexity of the compensation arrangements relative to the existing arrangements, and you specifically refer to four particular areas of additional complexity. I am interested particularly in three of them.

I would just like your views, or to get you to explain why you think that (i) abolishing the stepped regime for walk time compensation, (ii) abolishing rounding walk time changes to one minute, and (iii) netting off reductions in Walk time against increases, will increase the level of complexion.

MR WILSON: If I may, John, I will hand over to Jonathan Marshall in a moment to respond to

those points that have clearly been made in MVA's presentation.

MR MARSHALL: Looking firstly at what we are calling the "netting off" of facilities; at the moment facilities are considered in their own rights, as individual facilities, and clearly a netting off regime is going to be more complicated in calculating the compensation due each month.

Midland Main Line are firmly of the view that each facility should be considered in its own right and this to us seems to be entirely logical. We do not really see any rationale behind the netting off process, other than that of providing a potential financial benefit to the station facility owner. We would actually see this as a regime which effectively penalises Midland Main Line financially, when the SFO decides to move the facility.

We assume that London & Continental have a budget for facility compensation and clearly we would expect them to seek to minimise the level of compensation paid to Midland Main Line. It is our view that it is conceivable that the station facility owner could engineer the movement of an expensive facility - and by "expensive" I mean one that costs a lot in compensation terms - generally speaking a passenger facility, to a position closer to the relevant point on the station such that negative compensation, or a credit if you like, would result. We have a fear that this would then enable the station facility owner to move a range of cheaper facilities, which tend to be in the staff or miscellaneous categories, to far flung locations and that they would still remain within their overall compensation budget for that period. Midland Main Line would not have any choice but to accept such a layout of facilities.

We are a train operating company, and St Pancras is extremely important to us and we are extremely concerned that the operational viability of St Pancras station is maintained through the CTRL work period.

The cheaper facilities that I refer to are, as I say, generally staff and miscellaneous facilities and do not attract high rates of compensation - they are not used by passengers, and so they attract very low rates of compensation.

For us, though, as a train operating company at St Pancras station, these can actually be crucial to our operation at the station to ensure that we are able to maintain the level of service that our customers expect, and we think that our position could be prejudiced there.

The current station access regime has stepped levels of facility compensation. The basis for this is to incentivise London & Continental to provide us with a station that works. The foundation stone of the stepped regime is the concept of permissive ranges on the station which MVA's draft report does not seem to have addressed at all.

During the construction of the existing Agreement, a great deal of thought was given, by both the Union Railways and ourselves, to the correct and sensible permissive range for each facility on the station - every single facility was looked at in great detail. The permissive range is really the range in which it was thought it would be sensible to put a replacement facility with compensation attracting only a basic rate, and this is the foundation stone upon which the compensation regime was built.

We are still firmly of the view that the current stepped regime provides the required incentive on London & Continental to provide replacement facilities within a reasonable distance of the reference point or centre of the station, and we think abolition of a stepped regime has the potential to result in a severe loss of operational viability and efficiency at the

station.

We think that adopting the linear regime which MVA have recommended could again as with “netting off” result in the station facility owner being tempted to provide cheaper replacement facilities at a far distant location. To be honest, with all due respect to L&C, we do not think that they have any real interest in where a facility like, for example, the train destination label store is located. To them it is just a room which we use. For us it is very important that that room is close to where the trains are, for obvious reasons. So we are concerned to ensure that the station facility owner continues to be incentivised so that the station remains operationally viable, and we think that the abolition of the concept of permissive ranges for each facility and stepped levels of compensation are not the way to ensure that that is maintained. We hear the argument from MVA that such a move would be in line with economic principles, and we cannot argue with that. Our view is that a railway station does not work on economic principles. Operating a railway station is an entirely different matter.

The third issue that you talked about was rounding. This was introduced purely for simplicity’s sake, so that if a facility was moved a small distance it automatically incurred rounding up to one minute, and this was to discourage the station facility owner from making many moves of facilities.

We are not terribly concerned if this regime were to be changed and we were to go for a straight approach and lose the rounding, but it would clearly be more complex - which was your question. Currently, if a facility moves a short distance it is compensated as a minute, and we can calculate that very easily. If it is 15.5 seconds then obviously we have to do more work.

MR CHAPMAN: OK, thank you very much, Jonathan. I think you went quite a way beyond answering my question on complexity. You raised a number of issues there regarding, actually, the rationale of the existing regime versus what MVA have proposed I would actually quite like to bring in MVA to answer some of the points, and then I think London & Continental as well.

MR SEGAL: I will take them in turn. The netting off, I think you used the phrase "penalises Midland Main Line". The intention is that if London & Continental move a facility nearer the amount of compensation is reduced by the same amount as your revenue increases (if it is a passenger facility) or your cost decrease if it is a staff facility. The intention throughout this compensation scheme, as I hope we have designed it, is that it is neutral on Midland Main Line's revenue. Without the netting off facility Midland Main Line clearly get a windfall gain if L&C move a facility nearer.

We do not believe it adds to complexity significantly because all you have to do is measure the distance and then calculate. I would say the same about the roundings, it does not add to complexity. If you are measuring a distance it is a trivial task to put it through a very simple formula - you have seen the total content of the formula on the screen - and then calculate the compensation rather than round up to one minute and calculate the compensation.

Therefore, we believe that particularly given the context that there is a wholesale change in where the facilities will be, which will occur when you have moved to the interim station and moved to the final station, we believe it is the overall balance of facilities which is right. I think the thrust of your thinking, and I think it applies also to the stepped levels, is your concern is about operability of the station.

What you seem to be saying to me is that there are some facilities, particularly some of the staff facilities, about which the methodology in there is actually under estimating their value to you. This distance has a value over and above the valuation included within the methodology. The valuation in the methodology is based on how long it takes people to walk and therefore the number of additional staff you might need to employ, recognising it is obviously fractions of staff in reality in most cases.

If it is a facility that is used frequently by staff it should be having a high valuation in the regime because actually staff's walking time is I think valued rather higher than passengers' walking time, typically. It is just that there are generally a lot fewer staff than there are passengers.

So I am convinced the principle is right. It may be there are certain facilities, particularly on the staff side, where the valuation should be higher for some specific reason concerning the operability of the station that you need, and in reality if you do not get these tickets out to the train in time it is not a question of the additional staff time but rather because the way the station has to operate the train will depart late, which clearly of course would have a much bigger disbenefit.

It seems to me that you are arguing that the values in the regime are wrong, rather than the principles of the regime are wrong. I believe that the regime does give the correct incentives on L&C, that they will only put a location a long, long way away if it has a very low value, and if it has a very low value that should be because it has a very low cost impact, or revenue impact on Midland Main Line, and therefore it is the correct procedure, and I feel that putting in these steps or the thresholds, or not netting off is actually potentially complicating it. Netting off is seeking to avoid windfall gains to Midland Main Line.

MR THOMAS: Sorry, Alan, can I just bring in London & Continental first, and then I will give you the opportunity to respond to MVA.

MR ROSS: There are a number of points. First, on the complexity, I agree with MVA. I cannot see that abolishing the step regime would necessarily complicate the calculations any more than they are at present. Similarly with regard to the netting off, it would be a very easy matter to put figures into a spreadsheet and calculate, so I do not really see that there is an issue on that.

I do not see either that by adopting a progressively increased regime, instead of a stepped regime, that it would cause a perverse incentive on us, so I have to disagree with Midland Main Line on that.

Coming back to the netting off, as regards placing expensive items closer instead of cheaper items, I am sure we would very much like to put the LUL ticket halls where the management suite is going to go, but it is simply not practical.

The interim station has been through a very extensive consultation process, and the way the consultation process has worked all along is that the project has come up with ideas, gone to Midland Main Line - amongst others - and said "Look, what do you think about this?" Midland Main Line have had their input in great detail into the design of the station which, from our point of view, has always been designed to make the station work as efficiently as possible - the location of rooms, the layout of rooms, are all as a result of Midland Main Line's input. There is no scope for us to rearrange the facilities at this late stage in the development at the expense of their compensation regime.

- MR THOMAS: Thank you. Would Midland Main Line like to address some of the points that MVA and L&C have made?
- MR WILSON: Yes, please. I think John's point made about the staff facilities is probably at the heart of our concerns, that the value is wrong. But let me just go back to our basic premise on this.
- We entered both into this Agreement and this process to try and carry over the current regime, to stop all the complexity of renegotiation. Were we to enter into renegotiating staff facilities, and the value thereof, and forced into that because we take away the stepped disincentive, or the stepped incentive regime, then I believe we will be adding a whole layer of complexity and we will be here for a very long time to come.
- I think that is the core of my response to John's point. We do understand the straight economic view of this. This is about a station operator operating a station and not the economic part of it.
- MR THOMAS: Thank you. I have two further questions - I will give you the opportunity to come back, specifically on walking time which I would like to ask first. I then appreciate that you might have some more specific questions to MVA regarding the methodology, but if we can return to that.
- The first is a point of clarification that I would like from Midland Main Line. In their response to the MVA report you stated, and I think these were your exact words, that decreases in walk time will not result in significant passenger benefit, and may result in disbenefits if crowding occurs. I would therefore just like to know whether you also believe that increases in walk time may not necessarily result in passenger disbenefit, and may result in benefit? Or was that just an error in your response?
- MR MARSHALL: It is conceivable that an increase in walk time could, I suppose, result in a passenger benefit - it is conceivable but in our view very unlikely, very unlikely.
- MR THOMAS: OK, thanks. The other question I had in walking times is in relation ---
- MR SURMA: Sorry, if we could just add to that. We do also have to remember that there could be diminished returns in any event in bringing facilities closer together. Also, it is a fact that we have to remember that Midland Main Line are not asking for these changes, this is something that London & Continental want to do to carry out their Part 18 works. Yes, we are consulted and we wish to help, but in the end it is always what London & Continental want to do. The original station was where it was, and London & Continental want to move facilities, and as stated we do not ask for them to be brought nearer, this is something which they have planned.
- MR THOMAS: Does that mean that you do not think that London & Continental ought to have an incentive to minimise the disruption to Midland Main Line's passengers?
- MR SURMA: No, we do want them to have an incentive to minimise disruption.
- MR THOMAS: Thank you. I think we will move on. If I can ask one question, this is to L&C and then I will let you come in and address some of the other points. It is regarding the short term parking. MVA's percentage usage figures for the short term parking were based on data provided by Midland Main Line following passenger surveys. Could L&C explain the basis of the assumptions in its own estimates of car park usage, which it provided in response to the MVA report.
- MR ROSS: I am afraid we have not got the details of our response with us, but if memory serves

me correctly the usage of the car park is 3.5 per cent. We have Capri footfall data for the station which suggests that for a usage of 3.5 per cent., the only way that that usage could be achieved for the 20 park spaces that we are obliged to supply under the access agreement, would be if the only people who used those car parks originated on very, very short journeys, and had a very short wait time at their destination before making a return journey.

MR THOMAS: Can I ask Midland Main Line in response to that, whether the majority of users of the short term car park would be meeters and greeters rather than passengers actually using the train?

MR MARSHALL: We certainly are of the view that the short term car park means what it says. It is not for people making rail journeys from St Pancras station.

MR THOMAS: OK, thank you. I know L&C wanted to make some additional points?

MR MAYNARD: Four points, quickly. The first is that in respect of the disincentives about moves, you have to bear in mind that there is a move payment payable under the compensation regime every time a facility is moved, whether it is nearer or further away. So we do not see any need to weight short extra increases in journey time at all. There is quite a sufficient incentive to minimise moves through that additional payment.

Secondly, it should be remembered that, compared with continuing the original agreement, MVA are suggesting a considerable increase in the base multiplier for revenue, because if we had continued the original agreement we would still have been looking at the 1996 revenue increased by RPI. As we have already heard from Midland Main Line their revenue has gone up considerably faster than RPI, so actually the cost of compensation just from that one fact alone has risen by about per cent. London & Continental have a much stronger incentive to minimise these distances than they had under the original agreement if you accept a revision to the original base. It is raising the compensation by per cent.

The third factor is about walking time. The biggest single component of walking time that is now envisaged is associated with the move to the regional station because that is at the North end of the train shed. Unfortunately its position is fixed by the Channel Tunnel Rail Link Act, and certainly there were proposals to move it a bit nearer Euston Road but these were thrown out by the Parliamentary Committee, because they did not want to upset the setting of the Barlow Train Shed.

So, in fact, when you say the walking time is under London & Continental's control, there are elements that are not, and the position of the regional station is one such fact - there are only Parliamentary powers to build it on the proposed site.

Finally, just to comment on one of the issues that Midland Main Line raised, if indeed MVA are correct in assuming that the journey time elasticity is in excess of 2, which was suggested in response to one of my earlier questions, it is very obvious that any reduction in journey time, however small, will have a very significant effect on Midland Main Line's revenue, and to suggest otherwise is to ignore the maths and economic theory that underlies the PDFH.

MR THOMAS: Unless there are any further comments from Midland Main Line I think we have covered walking time in great detail.

MISS KELLY: Can I just raise one tiny point, Jonathan raised the point that it is mostly meeters and greeters that would mostly use the short term car park, but there is a pick up/set down point

which addresses that as well. 5 spaces - I thought the short term car park was used for longer term stays and, as far as I am aware, there was no complaint from any of the Midland Main Line passengers for the four months when it was first closed, there were no complaints so it obviously was not missed.

THE CHAIRMAN: I said earlier that I would check with people around 1 o'clock whether they would be happy to press on. I have missed that deadline, but I thought it made more sense to get through that item. My inclination is to go on at least through the next item on the list, if people are amenable to that, and I will check how starving we all are at half past. OK, we will press on.

MR CHAPMAN: The next item is the Thameslink blockade, and we have one or two questions.

MR THOMAS: The first question I have is for Midland Main Line. You rightly point out that MVA have not included the effects of increased crowding due to the proposed Thameslink blockade. I have three questions really.

First, what impact would you expect the Thameslink blockade to have on walking times?

Secondly, given the uncertainty given the timing of the Thameslink blockade, and its impact on crowding, might not a clause in the contract to review walk times following the Thameslink blockade be an appropriate way of dealing with this, or would that just increase the complexity?

Finally, I will give L&C the opportunity to come in and respond to any remarks that you have.

MR WILSON: Thank you. I will no doubt pass to Jonathan at some point during the course of this. There is quite a lot that Midland Main Line want to set in the context of the blockade.

It is very clear to all of us that the Thameslink blockade was always envisaged in this process, both in the negotiations of the track access agreement and the station access agreement, and indeed it is probably the biggest single event within the course of building the new Channel Tunnel Rail Link facilities that impacts on Midland Main Line's business. Therefore, I think as I have said earlier, it should be taken into account in the overall general damages to the business.

We sought and agreed right at the very beginning of this negotiation a general damage compensation to cover all these eventualities, and not just specific noise and dust samples taken at particular points in time, or intrusion made by a particular hoarding, etc. The Thameslink blockade clearly is the biggest single event within this and is six months in duration.

Secondly, I would like to go back to something John said about having three platforms during the Thameslink blockade. That is not quite true, the current view of the timetabling work that has been done on behalf of Network Rail is that Midland Main Line uses two platforms during the Thameslink blockade, and that Thameslink services take up four.

Coming to your specific questions, John. The issue about overcrowding at St Pancras station is very difficult to assess but, using work that has been done by London & Continental themselves, we currently have a morning train service between the three critical peak hours - and I will double check these numbers with my colleague behind me before I finalise them - of broadly 3,500 persons coming through the station. Given the current view of the timetables we use during that period we are talking about 14,000 people coming through that facility. This is

clearly a very large increase.

Now just exactly what that will mean in terms of walking times is very difficult to analyse. The work that has been done thus far actually indicates that the critical period will be in the evening peak where some of the models envisage actually having to hold passengers outside the station before they can be brought up on to the platforms to board their trains - so clearly a very substantial impact on walking times, and which at the moment I can only generalise on until we get further modelling work done in this area.

As to whether or not we ought to take a review as to the timing of the walking times, I think there are two points to make.

First, again we add a layer of the complexity to the agreement which has been mentioned previously, and the second actually comes into a point which I think we will go into further discussion on later, that MVA's work and response about the Northern and Western ticket halls is fine and we do not disagree with the premise that these will be built after we leave the Interim Station, but the core issue for the passengers is the time that it takes them to get to the train. Hence the Current Agreement is actually based on the time people take to get to those platforms, and the provision of the Northern ticket hall - or not - in the time frame that we are talking, and whether or not the blockade moves backwards and forwards, is another issue, and is actually missing the point. We are talking about people getting to the Tube, and continuing on their journey.

MR THOMAS: Thank you. Would L&C like to respond?

MR ROSS: I would just like to pick up on a couple of things Alan Wilson has just said regarding the studies that have been done by the CTRL project on passenger crowding. Studies were done originally using a computer simulation model called PAXPORT which was developed for the airline industry. What this does is to assess the numbers of people in this particular case coming off a train, identify where there maybe congestion points, such as the top of escalators or the front of CIS screens, and forecast the build-up of passengers, so there can be quite an accurate model (in the views of the modelers) about how passengers flow through a station from disembarking from the train to actually leaving the station.

Now, the studies that were done for the 1994 timetable, basically conclude that there are no significant congestion problems. Alan, in his talk just now, mentioned in particular the holding area that is needed for the evening peak period. This holding area is not necessary for the 1994 timetable, but it is necessary if an enhanced service is to be used. This enhanced service is coming from a project that is being led by the SRA and in which LCSP and Midland Main Line are having a great deal of input. If there is any congestion as part of this enhanced timetable, it is only congestion that is arising out of additional passengers that come from over and above the level of service that is our contractual obligation to provide. So Midland Main Line would, in effect, be gaining income benefit over and above their expectations at the time that the agreement was signed. I hope that was reasonably clear.

MR WILSON: I do not disagree with what Duncan said about those reports, the numbers are clearly available to both of us from the modelling work, and the minimum access timetable shows 12,000 people coming through that station in the peak hours, and 14,000 in the enhanced timetable. I think the core of the debate is Midland Main Line's current view of loss of revenue during that period is £ based on our current view of the situation. I have said

all along Midland Main Line are taking this thing very much in the round over the whole period. When we come down to the core of the debate, Midland Main Line's current view of loss of revenue during that period is £ .

MISS KELLY: I would just like to point out that for the duration of the Thameslink Project, a point that was picked up by MVA, Midland Main Line will be compensated under the track access arrangements so they need to take that into account before they start talking about the loss of revenues.

MR WILSON: I am sorry, that is not the case. The track access agreement compensates us for cancellations and additional journey times based on the 1994 level of services i.e. 67 trains a day. Given that the minimum access requirements, or the enhanced timetable runs we will not get any compensation from the track access agreement.

MR CHAPMAN: Thank you for that clarification. Midland Main Line mentioned their view of the access to London Underground, the point being that the key thing was getting to the platform, and that MVA's modelling work was all very interesting but that was the key point. I wondered if London & Continental wanted to comment on that point.

MR ROSS: That is the way the agreement is worded. However, when the initial compensation events started to kick-in and we tried to measure changes to walking distances for new routes, we found that there was no degree of correlation between our ability to measure new routes using CAD facilities, or indeed any other methods, compared to the distances or times that are recorded in the access agreement.

So at our instigation we went through a series of exercises redrafting the walking routes based on the descriptions contained in the access agreement. We did this jointly with Midland Main Line and agreed a new set of base line distances.

One of the problems we had was actually measuring the time and distance from the tops of the LUL escalators, down to the central points of the LUL platforms, and the same applied also to the Thameslink station at King's Cross. So we have agreed outside of the station access agreement, that we would establish a central point in the concourse, and this formed the basis for a remeasured base line walking time, and is also being used as the basis from which changes are measured. So our current arrangements with Midland Main Line are not on compensations to the change of walking distances down to the platform, but change in walking distances to the LUL concourse.

MR CHAPMAN: Does MVA have any points to raise on this question about how you approached the LUL compensation?

MR SEGAL: I presume by "concourse" you mean what I would call "Ticket Hall"?

MR ROSS: Yes, that is correct.

MR SEGAL: I wanted to clarify that. The issue is what happens when there are three ticket halls or three concourses, and how that measurement is then done.

MR ROSS: I am afraid I do not think there is an issue because neither the Northern ticket hall nor the Western Hall are currently programmed for completion during the proposed lifetime of the new access agreement.

MR SEGAL: If that is the case, and if they do not occur during the life of the access agreement then the discussion about LUL was irrelevant because any elements on LUL will not be implemented during the life of the access agreement. It was certainly a concern of ours that

there were, certainly at one point, planned dates which did occur during the life of the access agreement, and of course, there is a subsidiary issue which is that even if LUL do not do theirs in that time, what might happen - I am sure there will not be further delays to anything at St Pancras, but there must be a risk.

MISS KELLY: There is always a risk.

MR CHAPMAN: London & Continental, you have an understanding of when these ticket halls might be delivered, could you just tell us what the basis of that understanding is. MVA has produced some published data which seems to conflict with that. So I just really want to try and firm up if we can what the likely timescale is for these facilities, and then see whether Midland Main Line agree with that.

MR ROSS: Yes. We do have regular consultations with the LUL Project Team, and our understanding from them is that their construction programme is such that the Northern Ticket Hall, and the new Western ticket hall will not open until some time in 2007.

MR CHAPMAN: Midland Main Line, is that your understanding as well?

MR WILSON: Yes, without directly consulting the experts, yes. There is just one point I would like to go back on. Duncan's description of what has been currently done, because of the difficulties, is not in error. What he has missed out is that although we agree a time to the booking hall, we add a time to that - an agreed time - to get us to the platforms so that we are replicating as best we can the journey to the platform, and indeed this walking time, and this measure would change if we were going via the Northern Hall, or the Western Hall indeed, should that be needed. So I do not think we have any difference between us in measuring it. It is core about getting to the platform. It is unlikely to happen, but should it happen we have a methodology between us to take that into account in getting to the platform itself.

MR CHAPMAN: Thank you. We have one further question.

MR THOMAS: Just following on from that, Alan, if it were to happen, and you said you all think it is unlikely, but if it were to happen do you think that the MVA re-benchmarking methodology, when it does happen, is appropriate?

MR MARSHALL: We do not accept that any move of the booking hall for London Underground should result in a change to the benchmark.

MR WILSON: I would like to add to that. We seem to be talking about the London Underground as being separate to this CTRL works. It is actually part of CTRL works, and I know that to some extent it is being run as a separate project. This was always envisaged in the whole process of going into the compensation, and these Northern and Western ticket halls were all envisaged in there. I think our core point is no, we do see them as one and the same thing.

MR THOMAS: Do L&C agree that it was all part of the CTRL Project, and that the ought to be taken into account in the compensation?

MISS KELLY: Yes. We act as agents for the Secretary of State as far as the LUL construction works are concerned, and the CTRL implementation date was actually the deemed start date of the LUL works, and at that point the compensation regime kicked in. That is why we have been paying compensation since 2000.

MR CHAPMAN: Thank you. We have an option now. We have a bit of work to do under "general damages", and to pick up the issue of the interim station., We can plough on and do that and cover the last two points quite quickly, and then break for lunch hopefully about 2 o'clock. That

would give both parties an opportunity to have a break, talk amongst themselves, and then formulate what they want to say in their closing remarks in the light of all the questions and discussions.

The alternative, clearly, is to break now and then come back and finish off questioning and then go into closing remarks. It seems to us it would probably be better to plough on and then break at the end of questioning, but if anybody is desperate to break now or to have a comfort break then perhaps we ought to do that.

MR WILSON: David, might we take the opportunity to take a break. It is clear to us in the way the debate has gone that general damages forms the core of one of our debates, and accepting Mary's 30 minute break of earlier we actually found ourselves very limited in time in going through all the points we wanted to raise with MVA. So perhaps if I might request that we break now, please?

MR CHAPMAN: OK, thank you. London & Continental?

MISS KELLY: We are fine with that.

MR CHAPMAN: OK, we will break now and return at 2.15. Thank you.
(Adjourned for a short time)

THE CHAIRMAN: OK, refreshed, relaxed and with clear heads, we face the afternoon. As people have observed it is quite cold in here - I am not quite sure why, but perhaps it will help us press on. So, general damages.

MR CHAPMAN: I would like to start off by asking each of the parties to, in a sense, present a summary of their position on general damages, focusing, in particular, on: first, what you think the general damages compensation is for; secondly, what things should be taken into account in assessing the level of compensation; and thirdly, the thorny issue of how you think those things will be affected by the move to the interim station.

Can I turn to London & Continental first, and ask you if you would give us a brief summary of those key points, please?

MISS KELLY: Our view of the general damage is that it covers the effects of construction, whether it be noise and dirt, which are specifically stated within the terms of the access agreement. We have sought to get clarification on how the original computation was done. As to an appropriate basis for the computation of future general damage compensation to be paid out I really cannot express any viewpoint. We did make an offer of £ to Midland Main Line in one of our proposals, but this was based on what we considered to be a fairly limited impact from either noise and dirt. Unless one of my colleagues has something further to add, it states a very simplistic view. Our view of the rest of the compensation is that it deals with specifics, with the general damage having been seen as a catch all just to mop up.

MR ROSS: May I just add something there. The wording in the document is such that the compensation is as a result of general building effects, such as noise and dust. Clearly those are examples. If there were other important issues on the general damage issues resulting from building effects I am sure they would have been brought out in the document.

Earlier on Alan referred to "the single most important factor" in the context of general damage as being the Thameslink blockade. If that were the single most important factor I would suggest that that would have been included specifically in the general damage clause, and it is not.

So we have concentrated in our representation, in attempting to show both subjectively, and through the objective data from the independent surveys that we have commissioned, that the levels of noise, and dust pollution, within the current station are not as they were envisaged back in 1996, and that the move to the interim station and then the final location would in fact reduce those levels of noise and dust intrusion even further.

MISS KELLY: If I could just add further to that, I go back to an earlier point that I raised in that at the time of the current agreement it was not envisaged that Midland Main Line would actually be moving from that station so you have to bear in mind the assumption was that they would be right in the thick of the construction site, and that was obviously how it was assumed that the facility compensation would be quite small by comparison, so the general damage would actually compensate them for the damage to their business.

MR CHAPMAN: Thank you, can I turn to Midland Main Line and ask for the answer to that question?

MR SURMA: It has been discussed by the parties just now as to what was and what is building site effect. As stated in the agreement the general damages compensation was based on anything to do with building site effect - general building site effect.

The items there are given as examples. It is quite clearly stated that they are for example only. In assessing the general damages, any number of aspects which can constitute general building site effect is capable of falling into that description. So it is not just noise, dirt, but also visual perception, visual intrusion, and for that matter general loss of opportunity.

Damages are always difficult to prove in relation to building site effect on stations. That is why in stations there are various industry ways of calculating revenue losses and other aspects. On top of that, when deciding the damages back in 1996 it was quite clear that neither party wanted to sit down - on each occasion when something happened and actually try and prove what actual loss occurred.

It was on that basis that the parties agreed a liquidated damages' regime, and it is that regime which has been in operation. If one were to sit down and work out the damages on each occasion cost would always have been prohibitive.

The liquidated damages have the additional benefit of providing certainty. We have discussed this on a number of occasions, and certainty was an important point not only for Midland Main Line's franchise, but also in relation to the bid for the Channel Tunnel Rail Link concession, in that it allowed the bidders for that concession to assess what were the likely level of damages.

When first discussing the general damage compensation actual figures were looked at in percentage mode. Firstly, in one of the letters which we can produce the figure of per cent. of Midland Main Line annual revenue was discussed. This went down by compromise and discussion, to per cent. of general revenue. Yet again this was discussed with the DoT and other parties, and in the interests of certainty it was then fixed at an actual figure, £ index linked. That is the figure used in the agreement.

At this point I will hand over to my colleague, Meena Naidu.

MISS NAIDU: I would like to reiterate the starting point of 4 to 8 and also talk about the opportunity cost a little bit more. Roman has already mentioned that the purpose of general damages is to compensate for the effect on revenue of general building site effects which are not specifically

quantifiable elsewhere. We see that as the overall passenger experience and the inability to invest.

In relation to that inability to invest we believe over the normal course of events Midland Main Line would have made material investments to St Pancras, but this would have made little commercial sense whilst the station was subject to a prolonged period of disruption.

I think that we can demonstrate that Midland Main Line has made significant investment in its stations, not just to improve the station but also in upgrading the station from what is already existing there.

We have correspondence which during the negotiations for the 1996 agreement refers to a starting point of valuations of between per cent. of revenue for return on investment. These values were a starting point for the . This is consistent with the edition of the PDFH which was prevailing in '95 giving estimates at the time of revenue foregone of £ . We can provide examples of the type of investment that this represents. We have done a number of calculations, of what this signifies, and will provide them if so requested.

At the time of the original agreement it was recognised that CTRL works were to begin in 1996. This meant that any material investment was not feasible. The restraints that were placed upon us in 1996 due to delays to the works in temporary housing have been placed upon us again. Therefore the basis for general damage compensation is still there.

There is no simple way of enumerating the effects of general ambience, the station environment and revenue foregone using the basis of per cent., a valuation of per cent. of revenue was agreed by the Department of Transport at the time, Midland Main Line and Union Railways. This resulted in £ which has risen to £ through RPI indexation.

If the same valuation were applied to Midland Main Line's current revenue the general damages sum would be £ . We believe that this is a relatively conservative view, because at the time a starting point of 6 to 14 per cent. from a prior MVA study was also discussed.

New evidence cited in the latest PDFH shows that the basis of this valuation has actually increased from 5 to 10 per cent. for the re-emphasising of value of station environment.

To reiterate, we believe this understates the impact on Midland Main Line's revenue. It does not take into account any other relevant factors such as suppressed amount, which it could.

However, it is our view that the constituent elements should remain the same due to certainty. We have budgeted for this amount in future and are therefore proposing that the sum remains the same at £ and that this should be indexed.

In relation to the interim station we believe that the .2 valuation that MVA have applied is actually higher. We believe that 50 per cent. reduction is incorrect, and I will hand over to my colleague Dave to further discuss this.

MR FROST: I would like to show you, if I may, some plans of the interim station that have been provided to us by LCSP from contract 105. Several times this morning LCSP this morning said that the interim station was a brand new station, it was not Portakabin City and it will have the finish of an Intercity or a Suburban station.

The station we have currently is on one concourse level, and the interim station will be on two. The first overlay is of the ground floor. From the original drawing it is very difficult to make out where a building site effect would take place. So we have put some traces across the

top to show the outline of the station (in red) and then the traces in blue actually show the constructor's hoarding. So to say that it is not a building site - we are separated from the rest of the works by the constructor's hoardings is not the case. To the West of us will be where they construct the extension for Eurostar and the Western deck. To the East of us is where the Northern Booking Hall will take place; and to the South is where the current Barlow train shed will be refurbished.

This block on the Eastern side is, in fact, Portakabins. They are temporary buildings bolted to the side of what will be the Eastern deck extension.

The next plan is a plan of the platform level which follows the same format. We have overlaid that with the extent of the station and put in the platform edges, but once again there is - due to the Thameslink blockade - a constructor's hoarding which runs the length of platform 9, which will be removed for the Thameslink blockade and then replaced back in afterwards, again to the eastern side of the station they are just the upper floors of the same, temporary Portakabin type accommodation.

MR CHAPMAN: Thanks for that. We have a number of issues within that, some of them are specifically economic, and we have also got the practical impact of putting the interim station in the environment within which you are describing.

Can separate those two things? I am very keen to make sure that we hear London & Continental's view on the practical points that you have been talking about, but first can we just deal with the economics side. I will just turn to John Thomas again to pick that one up.

MR THOMAS: First, I would like to explore one of Meena's points in a bit more detail, and in particular I would be interested to hear from Midland Main Line whether they know of any examples where loss of opportunity to develop has actually been included within the compensation regime?

MR WILSON: John, I cannot directly come back to you and say that I can cite an example elsewhere in some other agreement that uses that. What I would like to go back on is John's assertion or his analogy this morning about his house with his Grandma's flat on it, which I thought was quite good. [Laughter]

That leads to a conclusion that square metre-age of land or buildings would be the same throughout the country and that is clearly not the case. When a land valuation is done, be it having a house on it or anything else, it is done by a land value agency or whomever, as being the opportunity cost and the potential development cost on that land. So I do not quite agree with his assertion, but I cannot and will not cite something that I do not know of elsewhere.

MR THOMAS: Can I just give MVA the opportunity, if they wish, to comment on any of the economic points that the parties have made?

MR SEGAL: There are a lot of points made. The issue about loss of opportunity I have dealt with before. In terms of the value of a general improvement to a station quality, I think there is an issue about whether that should be included, or the extent it should be included or whether it is part of this compensation package or whether it is something about long term charge, but the issue is in general in PDFH the maximum allowed on a station improvement is 5 per cent. That is the maximum, and it depends what you do, obviously. You do not get that for doing a small amount, that is the fundamental maximum and typical station improvements are more like 1 or 2 per cent. rather than 5 per cent., which may be how the per cent was derived - I do not

know how the per cent. was derived.

The issue for us on general damage - with the exception of the loss of opportunities - there is a general view that it is noise, dust, and I think there is a feeling that visual intrusion comes in as well, because it does clearly say "for example", and I think there is that general view there.

The issue is how much it is likely to change in the different scenarios. I have not had the benefit of looking at those plans in detail so whether I would change my view from 50 per cent. to more or less I have no idea, if I looked at those in detail.

MR CHAPMAN: Can I now go over to London & Continental and ask for your observations on these points generally and clearly also on the issue of the plans, and the general environment about the sitting of the interim station?

MR ROSS: Perhaps I can just set the ball rolling from our side. If we had known we were going to be allowed to make a presentation we could have brought along plans as well. The point is that plans were handed over to MVA showing the station layout. There was no attempt to hide the fact that the management suite of offices, Midland Main Line's offices, with train catering facilities and so on, are going to be housed in Portakabins. But they are outside the station footprint, so there is not going to be a huge visual degradation from the passenger's point of view once they are inside the station. There may be an effect as they approach the station (on foot) where you will see a Portakabin adjacent to it, but the principal visual impact is outside.

Dave has referred to the works surrounding Midland Main Line. In our submission we provided a programme of work and from that you can see what the works will comprise to the West, alongside what will be the international platforms. By the time we move to the interim station all the heavy engineering, all the dust creating works will have been finished. So I do not think that element is going to be as intrusive as Midland Main Line imagine it.

The works to the South again will be inside the Barlow shed, and the noise studies that we have done indicate that works at the moment that are taking place just outside the station shed are having very, very little impact on passengers inside the station. The reverse is going to be true. Any works that are at the mouth of the station are going to have very little impact on passengers using the interim station.

As far as the influence of works at the Northern ticket hall are concerned, again in relation to noise and dust they are on the other side of the road. At the moment we have got works that are taking place on the station forecourt. They are having no serious impact at all on the working of the station. I think Midland Main Line are actually painting a picture that is worse than reality.

MR CHAPMAN: Thank you.

MISS BISSELL: The Current Agreement contains an acknowledgement which reads as follows:

"The Station Facility Owner expressly agrees and acknowledges that the compensation payable pursuant to this Schedule 4 represents the parties' genuine pre-estimates of the loss which the Beneficiary may suffer as a result of the events which give rise to the payment of compensation under this Schedule 4."

Now that may have been the case in 1996 but with the benefit of hindsight and experience we do not believe that it turned out to be a genuine pre-estimate and we certainly do not believe that rolling forward the figure would equate to that going forward from the year

2003 for the residue of the period.

MR CHAPMAN: Thank you. Could you just tell me a little bit about the process for consulting Midland Main Line on the design - in a sense, the mitigation effects that you are putting in place around the interim station. What is that process like? How much influence does Midland Main Line have in terms of those mitigation effects?

MR PAGE: The consultation process with regard to both the interim station and indeed the final station follows really two sets, or two forums of meetings. There are monthly meetings with the design project team, ourselves and Midland Main Line, and separate meetings indeed with other interested parties. So there is a raft of meetings over the design of the interim station and also that follows on to the final station.

There are also monthly meetings that are led by the principal contractor, and that is where the detail of the facilities, the management accommodation, the general layer of the station facilities, internal layout and design are discussed. There has been a lot of input from Midland Main Line and other interested parties. Further to that there are weekly meetings that roll on from the current station and will continue right up and into the interim station.

MR CHAPMAN: Thank you. Can I ask Midland Main Line if they are content that London & Continental are doing everything that they reasonably can to mitigate the effects on your operations?

MR WILSON: Thank you, David. I would like to make a couple of points on that, and I think right from the very beginning say that we have no dispute at all with the Consultation process that goes on. As we have pointed out, L&C are not obliged to take our views into account, but there is no direct evidence that I want to lay at anybody's door that they are not listening to us - that is not the case here today at all. Mike has described the meetings that we do agree and understand are going on.

At the heart of this is this issue about the passengers' perception of what is going on here. People make judgments about their travel to and from London, and indeed through this station as a consequence of what they see, and what they experience. Whether these Portakabins are on the external side of this building or otherwise, people are walking through a building site. They are currently walking through between a hoarding and the platform edge on platform 2 at London St Pancras and people's perception is changed by this general building site effect. Whether there is a distance to the Northern ticket hall or otherwise, they are walking through a building site.

I have brought along today pictures of the current station as it exists today with people walking all around, in the background there are all sorts of impacts, visual impacts or otherwise. People's perceptions are changed by walking in this environment. This was why the whole general damages compensation existed. We have made an argument at our starting point that the perception issue was at the heart of where this all started from, and we perhaps differ with John as to how to apply some of the criteria, but we believe that this is having a substantial impact on our business and people's journey choices are changing. They are having to walk through the rain to get to the London Underground currently, and will continue to do so over a greater distance.

That is all I really want to go back on here. We are happy to share these plans, Duncan, they are plans that you have provided us with. I do not think there is any dispute between us as

to what actually exists in this station. It is the impact of this and the building site effect which it has on our income that we are really here to talk about.

MR CHAPMAN: Thanks for that. Just as a point of process, are we able to have a copy of those plans?

MR WILSON: Yes, by all means. They are L&C's plans. We will pass them to you, and if there is any dispute about then we will resolve it.

MR CHAPMAN: It may be that we already have them in L&C's submission but if we may have a copy, please?

MR WILSON: Of course. The pictures are also available, should you so wish.

MISS KELLY: Would it be possible for us to inspect those just to verify that the overlays are actually correct, in advance of you receiving them?

MR THOMAS: Yes, we are happy for that.

MISS KELLY: Thank you.

MR THOMAS: I would like to move on to the actual quality of the facilities that are proposed for the interim station, and I have a question for London & Continental, and that is given the changing quality of facility is a fairly subjective issue, what evidence does London & Continental have, or can they provide, that the proposed facilities at the interim station will be materially better than those existing at the Current station?

MR ROSS: Can I just clarify what you mean by "facilities"? What facilities are you referring to?

MR CHAPMAN: I think we were referring to the facilities that are available for both passengers and Midland Main Line staff. Does that answer your question?

MR ROSS: Can we just take a moment, please? [pause]

MISS KELLY: In answer to your question just in broad terms I suppose we could describe the new station, it is going to be a glass structure, it is going to be brighter, cleaner and new. You are going to have terazzo flooring. The facilities that currently exist will be replaced with new edifices, they will be clean, new and the same size at the very least. I think that that sums up the general ambience of the station. Compared with the current environment there is no question but that they are poles apart - where you have dark you will have a lot of light. It certainly will be a more pleasant environment for the average passenger, and I think they will appreciate that fact - the fact that water will not be seeping through the roof either will probably be a tremendous benefit. Perhaps if one of my colleagues would like to add some more detail?

MR ROSS: As Mary said, the general station environment, we believe, will be vastly improved on the current one. As to the level of quality of the individual facilities, perhaps like the WH Smith book stall, or the Cafe Ritazz, or whatever, we are not planning to increase the standard in any way, we cannot pretend to. But units will be provided for the retailers. They are being asked to supply their own designs, so it will be a purpose-built unit to their specification. They will not be asked to squeeze into an existing structure.

The same applies to the Portakabin accommodation for Midland Main Line, it will be new. Midland Main Line have had a great deal of input into the internal layout of those cabins - the siting of offices and so on. So in a sense they will be purpose-built as well.

As to the quality of the accommodation, it is difficult to assess but we have Portakabin accommodation as our headquarters in Brill Place, very, very close to St Pancras station and if you would like to see what can be done with office accommodation I could arrange a visit for

Midland Main Line, yourselves and MVA whenever you wish.

MR THOMAS: Thank you. I would just like to pick up on one point. If it would be difficult to assess the quality of the new facilities, will it not similarly be very difficult to assess what the impact on Midland Main Line's revenue would be, and therefore almost impossible to actually net off any benefits from the new facilities?

MR MAYNARD: We have already heard from Midland Main Line how they believe that through a missed development opportunity they think they could have increased their revenue by between per cent. I must admit I concur with MVA's view that I think it is much more likely the range of that development will be per cent.

But if you do look at PDFH, and from personal experience of what happened when I was working with Network South East where new stations were provided (and this is a new station with everything new, from the lighting to new toilets so everything works) then there is evidence, and it is supported by PDFH, that in fact you can get increases of in excess of 5 per cent. up to a maximum of about 10 per cent. Now, even if we take a lower value of about 5 per cent. that is a very substantial amount of money, and potential benefit to Midland Main Line that will accrue from moving in to this interim station, which as I said is ultimately going to be a permanent facility. It is a permanent facility for the Kent Regional Services, and it is being provided to a very much higher standard than perhaps you might envisage from looking around existing stations. It will be much more like a Liverpool Street of this world than the present St Pancras station.

MR THOMAS: Would Midland Main Line like to respond?

MR WILSON: I would, if I may, and if I can just make two or three points, all linked. Mary and Duncan have both said that the new station will be very much lighter and brighter. From the plans the Eastern wall of the station will actually be taken up by these Portakabins that will provide our access to our facilities. So we are going to have a great bank of Portakabins restricting that very light that they have talked about.

There are currently a whole range of facilities enjoyed by Midland Main Line customers, Shire's Bar, WH Smith, Cafe Ritazza, Whistle Stop, Uppercrust, AMT and a bureau de change, in St Pancras station, and it is my understanding, although I do defer to my colleagues, that only two retail facilities will be provided in the interim station.

Building back on to Geoff's point, I do not think that we are contending anything about a new station built for new customers, we are not questioning PDFH. What we are saying here is that this station, although new, and although having new platforms, will be part of a building site. There will be down its Western wall a builder's hoarding; to its Eastern side Portakabins, and indeed be a longer distance from the facilities that Midland Main Line passengers enjoy, and their access to London.

MR ROSS: If I can just come back on the number of retail facilities. I think Alan's information is somewhat out of date. We are at present intending to replicate the level of facilities that Midland Main Line currently enjoy. There will be an AMT, there will be a bar, there will be a coffee shop, and there will be an Uppercrust, there will be a Whistle Stop, and there will be a WH Smiths.

The only possible reason to change that would be if the enhanced MAR timetable is brought in during the blockade period when there may be a need to move some of those

facilities from certain locations to other parts of the station to maintain passenger flows leaving trains.

But if the enhanced timetable is going to be brought in then that will be to Midland Main Line's benefit, and any possible loss of revenue as a result of the loss of facilities will be counteracted by their increase in passenger revenue.

MISS BISSELL: One more point, please. I would like to remind people that at Major Stations operated by Railtrack Train Operators have no control whatsoever on retail operations, it is a matter totally within the gift of the Station Facility Owner.

MR CHAPMAN: I would like to try and wrap up the discussion now on general damages, and move on to the last couple of points, but before we do that, are there any points that either of the parties want to put in the record at this point? [No comments] OK, thanks very much for that.

The final two points are Definition of Commencement Date and the Station Code. On the Definition of Commencement Date, Midland Main Line in its application suggested a different definition of Commencement Date, trying to preserve the original Commencement Date in the original agreement, but also bringing in a new Commencement Date for the new contract. I think the main reason that you gave for that was that you did not want to adversely impact the station access conditions, or to try and amend those by the access contract.

Can you explain why you think that would happen and what adverse effect you think just having a normal commencement date in the new contract would have on the station access conditions?

MR SURMA: As you quite correctly state, the rationale behind having two Commencement Dates, i.e. the Commencement Date which is there at the moment in the Existing Agreement, and the New Commencement Date was purely part of Midland Main Line's minimalist approach in relation to making changes to the station access agreement. This approach is taken, on the basis that we were quite prepared to stay with the Existing Agreement as was.

The sole point we were looking at was, as there were various references to the Commencement Date in the station access conditions, we felt that there may need to be changes in the Access Conditions to reflect the fact that there were changes between the Commencement Date referred to back in 1996 and the new Commencement Date of the new agreement.

We did not want to make changes in the Existing Agreement where we would have to make resulting changes to Access Conditions and therefore go through the change process which would have to include Thameslink. It is purely a drafting issue, which we are more than happy to discuss if we feel that that is not the case.

MR CHAPMAN: Why would starting a new agreement with the normal definition of Commencement Date adversely affect the station access conditions? What provisions in it would materially change as a result of a new contract with a new commencement date?

MR SURMA: I do not have all the provisions to hand in that respect, but I am more than happy to identify the provisions we thought were a concern and send them to both parties, if that is OK?

MR CHAPMAN: That would be helpful, thank you. Would you be able to do that early next week?

MR SURMA: Indeed.

MR CHAPMAN: London & Continental, I think you were against this drafting point. You have

heard Midland Main Line's explanation. Is there anything further you want to add on that?

MISS BISSELL: The only point I would add is that the Commencement Date is defined in the Agreement, so we could define it perfectly adequately there to the extent we needed to.

MR CHAPMAN: OK, thank you. I would like to move on to the next item then, which is the Stations Code. The parties will, I am sure, be aware that the Regulator has published proposals to introduce a Stations Code which ultimately would subsume all the existing station access agreements within a new form of access contract, called a Stations Code. We published proposals last Summer and received very strong support, and are now moving forward towards developing that and ultimately implementing it. It is quite likely, if it goes ahead, that the implementation will take place within the term of the new St Pancras contract, and therefore the Regulator is thinking about introducing a retrofit provision into his directed contract that would enable that contract to move into the Stations Code if it is established, and I wondered whether the parties had any provisional views on that proposal?

MR SURMA: Our provisional view of that is that although we understand the purpose behind the Regulator's view in introducing the Station Code in stations, in relation to this particular station we would consider that perhaps it would not be appropriate to introduce the Station Code, simply on the basis that this agreement is very much a bespoke agreement. There were quite a number of changes throughout the whole agreement, with many references to the bespoke Part 18, and disapplications in the Existing Agreement to deal with Part 18. In our view, and obviously we are happy to hear Helen's view on this, we consider that if it is a case that a Station Code were to be introduced, we would have to spend quite a lot of time reviewing it to see how it would actually fit in. We think on this occasion perhaps it would be best if this Station Access Agreement was left out of the process.

MR CHAPMAN: Thank you. London & Continental?

MISS BISSELL: We are actually happy to adopt the Code. We would, of course, need to review it and make sure that all the provisions were consistent with the particular peculiarities of the station, but subject to that we are more than happy to include it.

MR CHAPMAN: Thank you very much. That brings us to the end of our question and answer session. We now move on to a stage of closing remarks both from yourselves, the parties, and from us. Would it be helpful to you to have a short break before we invite you to make your closing remarks, say, 15 minutes?

MISS KELLY: Yes, please.

MR WILSON: That is fine.

MR CHAPMAN: Thanks. 3.15.
(Short break)

THE CHAIRMAN: Right, we are into the last segment of the day, and would like to invite you to make any closing remarks that you would wish to make. I suggest we start with London & Continental.

MISS KELLY: It has been an interesting day. MVA's analysis of the economic loss to Midland Main Line is using their current income levels in spite of the fact that the Access Agreement that exists at the moment is actually 1996 levels, plus RPI. What concerns us in their computations is they are showing a substantial increase on the current levels being paid over for walking distances, and I just have to go back to my earlier point about the fact that Midland Main Line

thus far has failed to quantify any significant loss having been suffered. In fact, they have enjoyed considerable growth in a period where there has been construction work going on in the station and they have been paid considerable sums as a form of compensation.

This is our main argument, we have an issue with the fact that we seem to be providing a windfall income for Midland Main Line.

On the subject of the MVA analysis, they have not taken account of the value of the interim station which seems to be contrary to the PDFH guidance, and it would seem to suggest that there is absolutely no value attaching to this new station environment which, in spite of what Midland Main Line says is not actually going to be a deterrent to their passengers. Certainly, if St Pancras station continues to attract people in its current state, I imagine that the interim station will provide a far more attractive disembarkation point.

Having said that, the reality is the Project is going to have to bear an additional cost for moving Midland Main Line to the interim station, and one has to ask the question if it is actually going to be such a burden for them, as far as their income stream is concerned, and a burden for us as far as the payments we have to make - and they will be increased - one has to ask the question: why are we doing it? Would it not be easier just to retain the current system, and keep them in the old shed with the construction work going on around them? That was the original plan, because although the interim station may have been planned to be built, the idea was that Thameslink would occupy that station. Midland Main Line were not to be housed at the interim station. At the time of the Agreement that was not the intention. I know I have made that point before but I feel it needs to be reiterated.

The reality is that the CTRL Project did not anticipate having to pay such a phenomenal amount of walking distance, having moved Midland Main Line into what can be described as a more attractive environment, in spite of what Midland Main Line says.

The other point, and Geoff I think will be directing his written comments to the walking time factors, and that is something that needs to be dealt with following this hearing.

Alan made reference to the loss that will be endured, or at least it is forecast to be endured during the Thameslink blockade. I think we need to emphasise that the blockade is as a direct result of track works. The track access agreement is limited to the 1994 timetable, that is outside the scope of the station. If we have a station that can actually bring the trains in, that is our responsibility. If the trains are not running we cannot do anything about that, and I think that needs to be pointed out. He has pointed out that he is only going to be paid compensation on the 1994 timetable basis, against that. I am not quite sure how he can justify us picking up the balance of that loss. I do not see a justification for it.

I will close on that basis. Thank you.

THE CHAIRMAN: Thank you.

MR WILSON: Midland Main Line are happy with the existing agreement, and I think today we have heard a variety of economic opinion and views as to how we might re-base this compensation.

I would like to start by saying Midland Main Line wanted simply to extend the agreement by changing the date of this agreement for the very reasons we have heard here today.

Both parties assumed that compensation will be payable under the existing agreement

and going forward, and therefore I think it was fair and reasonable for us to start at that point.

Today I have heard a lot of common ground as to the purpose of the regime, and that it should compensate Midland Main Line and incentivise London & Continental. I think it is worth saying again that the regime came hand in hand with the Part 18 rights granted to L&C when it was all put together.

I think there is also a common ground that any kind of compensation be based on Midland Main Line's revenue. I do not think we have any disagreement at all between the parties, and indeed Midland Main Line entirely supports the use of PDFH and MOIRA to come to the assessments of the compensation.

Compensation has been and will continue to be payable under the existing regime. The CTRL works were anticipated within the existing agreement, and indeed London & Continental have stated that they anticipated paying compensation going forward, so our premise once again that the agreement be rolled over just by changing the date would stand.

The base level of Midland Main Line's revenue is, as we have already submitted, and we are happy to further submit just what that might be at 2003 levels.

We have a difference, it is clear, on the issues of rounding, stepping and netting-off. Whilst they may not be consistent with the pure economic theory they reflect genuine concerns of Midland Main Line as to the operability of the station and it is my contention that they should not be abolished unless we are allowed to go back into renegotiating the costs and revisiting the safeguards that we believe they hold in place for the staffing facilities.

The Thameslink blockade will have a huge impact on Midland Main Line's business, and it should be taken into account in this whole thing. As I have said more than once, the that was ultimately reached as a general damages compensation was to be taken across the entirety of the Channel Tunnel Rail Link construction or works. There are peaks and troughs in this thing, and despite what I have heard today, I do contend that it is the visual impact and the opinion of our customers, just hearing of these works and that they are going into a different station will impact on our revenue directly.

The LUL works are part of the CTRL works, and therefore compensatable, and as such it is my contention that new benchmarks are not necessary.

General damages are based on the building site effects, and one effect of the building site at St Pancras is the loss of opportunity of developments for Midland Main Line. Loss of development potential is compensatable in the example of land prices, and the development potential of the land is included in its value. It is also measurable based on PDFH and values of investment that Midland Main Line have made in other stations. I will come back to that.

The interim station will not be an improvement on the current station in our opinion. Movement of a major London terminal has never been done before, and I just cannot emphasise enough that the effects on a TOC cannot be underestimated, after all, 90 per cent. of our revenue is based in London.

With the bulk of the CTRL works still to be completed, it is impossible to actually make a judgment as to the future impact on our business. Today more than once London & Continental have said that Midland Main Line have enjoyed growth. That is quite right. It is growth based on investment in two tranches of new trains and a third one in the pipeline. It is growth based on huge investment at stations, including most recently £6.5 million in a new

multi-storey at Sheffield, over £1 million on first class lounges at Leicester, Derby and elsewhere. We have been successful and I put to you that we should not be penalised in this case for our success.

Thank you.

THE CHAIRMAN: Thank you. I think our closing remarks are quite short, really. I just want to thank everyone for coming today and for the constructive attitude everyone has taken. We have found it interesting and very useful. I think it is important that we feel we understand fully the perspectives you are taking. It is a pity, but a fact of life, that since we are all looking at something that is going to be a judgment, and you have fundamentally different views on what the right answer is, that it seems to me quite unlikely that I am going to come and pluck a rabbit out of the hat and have you both say "brilliant, that's what we wanted".

However, what I can reiterate is that we have seen common ground on the objectives we are trying to achieve here in the form of this agreement. That is what is going to drive us and we will come out, we hope, as near to the right answer as we can in anything that is a subjective judgment, and we will set out our reasons for doing that.

There are a couple of areas where you are volunteering more material to us and the earlier we can have that during the course of next week the better.

I mentioned at the beginning that we will be sending copies of the transcript out to you so that you can check and clear what you have said, so that you can be confident that when we are putting the bundle together for the final decision that your views are accurately recorded. If we then decide to publish we will also invite you to indicate any areas that you wish kept out of the public domain.

Thank you all very much.

(The hearing concluded at 3.30 pm)