



Office of Rail Regulation



Office of Rail Regulation

Annual Report 2004-05



OFFICE *of*
RAIL REGULATION

Report of the Office of Rail Regulation

To the Secretary of State for Transport and the Scottish Ministers

I enclose the report of the Office of Rail Regulation (ORR) for the year ending 31 March 2005 as required by section 74(1) of the Railways Act 1993 and the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc) Order 1999.

I confirm that during this period ORR:

- (a) made no references to the Competition Commission; and
- (b) received no general directions under section 69(2) of the Railways Act 1993.

Chris Bolt
Chairman, Office of Rail Regulation
May 2005

Presented to Parliament in pursuance of section 74 of the Railways Act 1993

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Foreword by the Chairman

The year starting on 1 April 2004 proved to be a year of considerable change: in July the Office of the Rail Regulator became the Office of Rail Regulation (ORR) with myself, four non-executive colleagues and a Chief Executive taking over as a statutory Board from a single Regulator. Also in July, the Department for Transport issued the conclusions of its Rail Review and published a White Paper, *The Future of Rail*, proposing reforms that amongst other things would abolish the Strategic Rail Authority, transfer responsibility for rail health and safety regulation from the Health and Safety Executive/Commission to ORR, and increase Network Rail's responsibilities. The Railways Act 2005 reflecting these changes received Royal Assent on 7 April 2005.

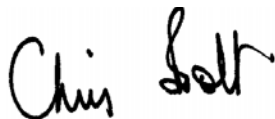
ORR's new statutory Board therefore barely had time to draw breath before taking up the challenges of the Rail Review. We subsequently issued our document *Implementing The Future of Rail: ORR's Role and Proposed Work Programme* in September 2004, setting out how we would be approaching the reforms. This then helped the Board, our management and staff restructure and reprioritise our business plan. At the same time we have continued to do all the things that are required of us under our jurisdiction: seeking to ensure Network Rail's effective and efficient stewardship of the national rail network and the fair and efficient consumption of rail capacity; promoting effective and efficient working relationships between players in the rail industry; and encouraging competitive markets for the benefit of users of the railway and preventing anti-competitive agreements and practices in the rail industry.

We have worked closely with our stakeholders over the year to understand from them how we can take forward our work reflecting the White Paper and our existing functions. To this end we published our draft Corporate Strategy for consultation in February 2005 setting out the priorities for the next three years. These included in particular, priorities such as: transferring rail health and safety regulation to create a new ORR; preparing for the Periodic Review 2008; and contributing to the franchising programme.

This Annual Report charts the diversity of work ORR undertook during the year, our statutory functions and duties, and also the unique position we hold as the independent regulator for the rail industry. We have an important role in encouraging the parties across the industry to work together more creatively and co-operatively to build a better railway.

Our staff have worked incredibly hard to help and support the Board over the past year, for which the Board is grateful. They continue to work tirelessly to carry out their duties and to take forward the changes, and we are confident that they will do so throughout the next year to the same high standards.

So we look back in this report on a year of considerable change, and forward to another year that will see further change, all the time focusing on our aim of applying "fair and effective regulation to enable the railway to be safe, well maintained and efficient and to ensure that it provides value for money for users and for its funders".



Chris Bolt
Chairman



Overview

Introduction

This annual report covers the 2004–05 reporting year and describes ORR's achievements in delivering the objectives set out in our Business Plan 2004–07.

The reporting year was marked by the transition from an individual Regulator to a statutory Board on 5 July 2004 and the work towards implementation of the Government's Rail Review following publication of *The Future of Rail* White Paper on 15 July 2004.

During the summer of 2004, ORR's principal focus was on the provision of strategic advice to the Department for Transport (DfT) on its Rail Review proposals. During the latter part of the reporting year attention shifted towards the practical aspects of implementation, including the effective transfer of responsibility for rail health and safety regulation from the Health and Safety Commission (HSC) and the Health and Safety Executive (HSE) to ORR.

Details of ORR's press releases and publications during 2004–05, including electronic versions of all consultation documents, can be found on ORR's website at <http://www.rail-reg.gov.uk>.

Events in the annual reporting year

April 2004

- We directed Network Rail to enter into a track access agreement with Thameslink Rail Limited under section 17 of the Railways Act 1993.
- We approved track access agreements under section 18 of the Railways Act 1993 between Network Rail and Central Trains Limited, Wales and West Passenger Trains Limited and West Anglia Great Northern Railway Limited.

May 2004

- We issued a Statement of Objections to English Welsh and Scottish Railway Limited (EWS) stating that we proposed to make a decision that EWS has infringed the prohibition contained in Chapter II of the Competition Act 1998 (abuse of a dominant position) in relation to rail haulage by coal.
- Following an earlier consultation in July 2003, we published a policy statement on moderation of competition. It explained the circumstances in which ORR expects to approve contractual protection for a train operator and how we intend to deal with applications for rights to run new competing services where incumbent operators have no such contractual protection.
- We published our *Annual Report 2003–04*, alongside our *Business Plan 2004–07*.
- We introduced new arrangements 'Local Output Commitments' (LOCs) in Part L of the Network Code to improve Network Rail's local accountability to its customers.
- We consulted on plans to strengthen Network Rail's Network Licence to ensure that Network Rail's proposed long-term debt issuance programme did not jeopardise the interests of customers and funders; and to give effect to agreements clarifying Network Rail's accountability.

June 2004

- We consulted on a draft new Part J of the Network Code. This included provisions for mechanisms including the voluntary and mandatory surrender or adjustment of track access rights and a 'use it or lose it' mechanism.
- We welcomed delegates to a meeting of the European rail regulatory bodies in London.
- We published consultation proposals for the first stage in the reform of the Network Code. These covered procedures for changes to the Code, management of operational disruption, changes to the network and vehicles used on it, provision of information, and appeals to ORR.

- We consulted on proposals to reform the Railway Industry Dispute Resolution Committee to enable more speedy and efficient resolution of access disputes; and establish a Railway Industry Mediation and Arbitration Service available to all railway industry participants.
- We announced our decision to approve access rights to allow Hull Trains to operate an extra service a day in each direction between Hull and London King's Cross. This increased Hull Trains' direct services between Hull and London to five per day in each direction.
- We published our judgment in the appeal by Network Rail against certain aspects of a decision of the Network and Vehicle Change Committee, and a cross appeal by GNER Limited against other aspects of that decision. The decision concerned alleged deterioration in the condition of Network Rail's network and whether such deterioration, if proved, could constitute a Network Change within the definition of that term in the Network Code. ORR decided that it could.
- We announced our decision not to direct Network Rail to enter into a track access agreement with Grand Central Railway Company Limited.
- We published our final policy conclusions on the Stations Code. These included proposals to replace the current access agreements, collateral agreements and the station access conditions with two Stations Codes, one covering access to every station in England and Wales, and one covering access to all stations in Scotland.
- Following an investigation, we concluded that the London Underground Group's approved supplier policy for the procurement of safety critical staff did not infringe the Chapter II prohibition on abuse of a dominant position, imposed by the Competition Act 1998.
- We published a guide to the model passenger track access contract, describing the key provisions of the model contract in simple terms and putting it into the context of the regulatory and contractual structure of the industry.

July 2004

- We published a consultation paper on proposed model clauses for vehicle and route acceptance contracts between a rolling stock manufacturer and Network Rail.
- We consulted on proposals for a model connection contract for parties wishing to connect facilities such as a freight facility or a heritage railway to the national rail network. This built upon the existing model passenger and freight access contracts published by ORR during 2003–04.
- Following a consultation in May 2004, we modified Network Rail's licence to ensure Network Rail's proposed long-term debt issuance programme would not jeopardise the interests of its customers and funders.
- We published our final conclusions on the reform of the railway industry's dispute resolution regime, including the establishment of a new mediation and arbitration service for the industry and those who contract with it, and reforms to improve the efficiency and effectiveness of the Access Dispute Resolution Rules (ADRR).
- We introduced the first stage of reform of the Network Code following the consultation in June 2004.
- We issued a notice under Condition C8 of the Network Code to implement a new Part J of the Network Code. This set out how train operators' access rights can be changed in future, including a 'use it or lose it' mechanism to ensure that capacity is used more efficiently.
- The Office of Rail Regulation was established by the Railways and Transport Safety Act 2003 on 5 July 2004, assuming the functions and duties of the former Rail Regulator.

August 2004

- We approved track access agreements under section 22 of the Railways Act 1993 between Network Rail and EWS, Arriva Trains Wales Limited, and North Western Trains Company Limited.
- In advance of the initial consultation document on our review of Network Rail's future signalling requirements (published in November 2004) we sent an open letter to the industry, setting out the scope and timescales of the review.

September 2004

- We issued a notice under section 55(6) of the Railways Act 1993 that Network Rail had agreed to restore compliance with Condition 9 of its Network Licence (obligation to provide accurate information about revisions to the national timetable at least twelve weeks in advance of operation) through a comprehensive recovery plan submitted to ORR in July 2004, providing for a staged improvement through to full compliance in September 2005.
- We consulted upon our proposed role and future work programme, developed in the light of *The Future of Rail White Paper*. The consultation concentrated on those initiatives in the White Paper not requiring legislation, including strengthening Network Rail's Network Licence to ensure it performs its expanded role effectively; and proposals for the second stage of reform of the Network Code.

October 2004

- We published a statement on our assessment of Network Rail's long-term debt issuance programme, as revised in August 2004. In light of changes to Network Rail's long-term financing plans since the July 2004 licence modifications, we also issued a notice under section 12(2) of the Railways Act 1993 proposing a further modification to Network Rail's Network Licence to give effect to the July 2004 licence modifications.

November 2004

- We published initial consultation documents on our reviews of the structure of Network Rail's costs and charges, and the Schedule 8 performance regime.
- Following consultation on a notice issued under section 12(2) of the Railways Act 1993 in October 2004, we modified Network Rail's Network Licence ahead of its new debt issuance programme.
- We published a consultation document on our review of Network Rail's future signalling expenditure, explaining the context of the review and setting out our proposed approach to establishing what Network Rail needs to spend to renew and maintain signalling systems in an efficient manner.
- We published consultation proposals for reforming the depot access regime through a new Depots Code to replace the current access agreements, collateral agreements and Depot Access Conditions, containing standard terms and applying to all depots.
- We published our *Statement on Network Rail's Stewardship of the National Rail Network 2003–04* alongside a consultation document on the proposed Network Rail Monitor, which would provide a basis for regular updating of this assessment for a selected range of measures.

December 2004

- We consulted on proposals to simplify the licence exemption application process and draft guidance for rail operators applying for a licence exemption.
- On 15 December 2004, we issued a business plan notice to Network Rail, specifying the form and content of the company's 2005 Business Plan.

January 2005

- Following an appeal by EWS under Part G of the Network Code, we determined that the decision of the Network and Vehicle Change Committee that Network Rail may proceed with a network change to remove the Ruscombe Loop on the Great Western Main Line should stand. EWS' appeal was rejected.

February 2005

- We consulted on our proposed policy for long-term track access contracts.
- We published the findings of our review of the role of the Rail Safety and Standards Board (RSSB). The review addressed concerns raised by the Government about industry safety leadership and aimed to ensure the arrangements were fit for purpose in the light of the changes in industry structure envisaged in *The Future of Rail White Paper*.
- We published for consultation our draft Corporate Strategy setting out our proposed approach to regulation over the next three years.
- We met Network Rail and other key industry parties to review the lessons learned from the Christmas and New Year period to improve train timetable and seat reservation information for passengers.
- We consulted upon a proposed policy framework for investments aimed at facilitating the efficient provision of rail infrastructure projects.

March 2005

- We consulted upon proposed changes to Network Rail's Network Licence designed to reflect the new responsibilities placed upon Network Rail in *The Future of Rail White Paper*, concerning whole industry performance, industry planning and route utilisation strategies (RUSs).
- We issued a notice under section 55(6) of the Railways Act 1993 that we had decided not to make an enforcement order on Network Rail for its continued breach of Condition 9 of its Network Licence, following the securing of additional commitments from Network Rail to provide accurate and timely information on changes to the national timetable.
- We published a document setting out our emerging views and further issues as part of our review of Schedule 8 of franchised passenger operators' track access contracts (the performance regime).
- We issued the first Network Rail Monitor, a new quarterly balanced scorecard on Network Rail's performance as owner and operator of the national rail network against a range of operational and financial measures.
- We approved modifications to the Access Dispute Resolution Rules (ADRR) submitted by the Class Representative Committee in February 2005. The changes were developed by the industry in response to ORR's notice under Condition C8 of the Network Code in July 2004 proposing modifications to the ADRR.
- We consulted upon revised guidelines on the application of EC and UK competition law to services relating to railways. These update our previous guidelines, published in November 2002, taking into account the changes brought about by EC Council Regulation 1/2003 (the Modernisation Regulation), which came into force on 1 May 2004.
- We published an initial consultation document on our proposed review of Network Rail's possessions strategy and Schedule 4 of franchised passenger train operators' track access contracts.
- We published, following consultation, guidance for rail operators applying for licence exemptions. The guidance sets out a streamlined licence exemption application process.

ORR external relations

Rail industry

We have continued to engage proactively with the rail industry on the full range of industry issues. The Chairman attends the meetings of the group of six industry leaders. We are also represented on other key industry groupings such as the National Task Force.

Department for Transport

The ORR Chairman (and before him the Rail Regulator) met the Secretary of State and senior DfT officials on a regular basis. We have been working actively with the DfT on the policy and transitional implications of the implementation of *The Future of Rail* White Paper.

Health and Safety Executive

We have continued our regular liaison arrangements with the HSE on current issues. In addition there has been extensive joint work to plan the transition to the new combined rail health and safety and economic regulator.

Strategic Rail Authority

Regular and ad-hoc meetings have been held with the Strategic Rail Authority (SRA) on the full range of current policy and transition issues.

Rail Passengers Council

The Rail Regulator and subsequently the ORR Chairman met the Chairman and National Director of the Rail Passengers' Council (RPC) on a number of occasions during the year, and also spoke at public RPC meetings. ORR officials attended RPC and Committee meetings as observers to ensure that we remained up to date on areas of concern to passengers.

Other bodies

In June 2004, the Rail Regulator hosted a successful two-day workshop for European Rail Regulators attended by 21 out of 25 Member States to discuss matters of common interest and share good practice.

We opened discussions and began a series of meetings on the proposed regulatory framework and steps needed to implement Merseyrail Passenger Transport Executive's proposals to take control of the rail infrastructure in the Merseyrail area on a long lease from Network Rail.

We attended a meeting of the Economic Development and Transport Committee of the National Assembly for Wales in March 2005. At the meeting we discussed our draft Corporate Strategy, and addressed members' comments as part of the consultation process on the document.

Over the course of the year ORR Board members met with key industry stakeholders, including the Association of Train Operating Companies (ATOC), the Network Rail Board and HSC/E.

In February 2005, the ORR Chairman paid an official visit to Scotland where he met with officials from the Scottish Executive, and key rail industry personnel from Network Rail and First ScotRail. This visit formed part of the Chairman's programme of meetings with rail industry managers and stakeholders to understand ways in which we can help the industry to deliver the service that customers and funders expect.



Objective 1

Objective 1 - to ensure the monopoly infrastructure provider's effective and efficient stewardship of the national rail network

Network Rail's stewardship

In 2004–05 we reviewed Network Rail's Annual Return for 2003–04, finding that Network Rail's management of the network had started to improve, but that the company needed to do more on measuring and delivering efficiencies and improving planning processes for the benefit of customers and funders. The findings were summarised in our first Annual Statement on Network Rail's Stewardship of the National Rail Network, published in November 2004.

We carried out regular reviews of performance, asset and financial data during the year to assess Network Rail's continuing compliance with its Network Licence.

We reviewed Network Rail's 2004 Business Plan, the first to reflect the conclusions of the Access Charges Review 2003 (ACR2003), which determined Network Rail's expenditure for the control period 2004–09, and monitored Network Rail's progress in efficiently delivering the outputs of a number of major projects financed under the ACR2003 including the West Coast Route Modernisation, Southern Region New Trains Project, Fixed Telecommunications Network, GSM-R (radio network), and Pollution Prevention at Light Maintenance Depots.

We undertook a review of Network Rail's regulatory accounts for 2003–04, ensuring compliance with ORR's guidelines and advised the Chairman of Network Rail's remuneration committee as to the appropriateness of Network Rail's proposed management incentive plan (MIP) for 2005–06.

Train performance

During 2004–05 we worked with industry organisations and the Government to help bring about an improvement in train performance to meet and better the targets set.

Train performance is reported using two indicators:

- Public Performance Measure (PPM) - the percentage of trains arriving at their destination within a specified time (typically five or ten minutes) of their booked arrival times (confined to trains run by franchised passenger train operators). This measure includes all delay causes (Network Rail, train operators and others); and
- Network Rail Delay Minutes - the total number of minutes delay to passenger and freight trains, where the delay is attributed to Network Rail.

Public Performance Measure

PPM improvement has continued during 2004–05, with most gains arising from the reduction in Network Rail-caused delays. By the end of 2004–05 the PPM figure had risen to 83.6%, a 2.4% improvement on the 2003–04 year end figure of 81.2%.

Network Rail Delay Minutes

Network Rail reported a year-end total of 11.4 million delay minutes, subject to dispute settlements which may increase this number slightly. This compares favourably with the 12.3 million delay-minute target ORR for 2004–05 set in the ACR2003 and the 2003–04 year-end figure of 13.7 million minutes. This improvement has been achieved by reducing the number of failures or incidents and the average delay caused by each. Both the autumn period and the cold weather during the fourth quarter of the year were managed well, with successful mitigation measures applied during adverse weather conditions.

Local Output Commitments

We formally established LOCs, requiring Network Rail to give a contractually binding target for train delay minutes to each of its train operator customers.

Cost efficiency

The ACR2003 determination incorporated the efficiency savings which Network Rail should be able to achieve over the control period 2004–09. Network Rail has continued to develop a framework for measuring unit cost efficiency over the control period across the range of its assets and activities. We commissioned consultants to review Network Rail's plans. The consultants' final report was delivered in March 2005, and this will be the basis of continuing work in 2005–06 to ensure that Network Rail's overall efficiency savings can be robustly identified.

Network Rail Monitor

In November 2004, we published a consultation document proposing the introduction of the Network Rail Monitor, a balanced scorecard summarising Network Rail's performance in delivering its outputs. Following consultation responses, the first Network Rail Monitor was published in March 2005 covering performance up to the end of the third quarter of 2004–05. Four Monitors will be published each year and it is expected that the format and scope will be refined over time.

Asset Management

We have continued to monitor Network Rail's compliance with Condition 24 of its Network Licence, requiring the company to establish and maintain a register of assets in support of its business requirements. Network Rail has been submitting six-monthly reports on its plans and progress. We found the report submitted in October 2004 to be unsatisfactory. Following extensive discussions with ORR, Network Rail submitted its revised plan and progress report in April 2005. We are currently considering these plans and their compliance with the Network Licence.

The British Standards Institution published in 2004 a document, *Publicly Available Specification 55* (PAS 55), providing a framework and guidelines for good practice in asset management which is of particular relevance to capital intensive industries such as utilities, petrochemicals and railways. We are currently undertaking a programme of work to determine where PAS 55 can add value to our scrutiny of Network Rail's activities, in particular the optimisation of expenditure on maintenance and renewals.

Land disposals

Condition 26 of Network Rail's Network Licence ensures that land needed for the development of both the passenger and freight railway network is protected from disposal by Network Rail that would not be in the public interest. In 2004–05, we consented to 26 of Network Rail's proposed land disposals, in five cases attaching conditions to consent to address concerns raised by industry consultees in the consultation process. We directed Network Rail not to proceed with one proposed disposal in October 2004, a freehold sale of a plot of land at East Didsbury Station, Greater Manchester, to a residential developer. We refused consent on the basis that the land was needed for future provision of station car parking.

Regulatory Accounts

Network Rail is required to report on its financial position and performance in the regulatory accounts, on a basis consistent with regulatory determinations and policy. The company's accounts for the year 2003–04 were delivered to ORR in July 2004 and published on Network Rail's website shortly afterwards. This was consistent

with the timescale set out in Condition 22 of the company's Network Licence. The accounts presented the additions to the regulatory asset base (RAB) which were used to calculate access charges in the ACR2003.

The accounts are governed by policies set out in the regulatory accounting guidelines, which we issued. We have been working on a revision to these guidelines to reflect better the policies and financial framework established in the ACR2003, and to reflect experience from previous regulatory accounts.

Policy framework for investments

If rail services are to develop to meet better the needs of passengers and freight users, and the growth in demand, it is essential that there is an effective framework for infrastructure investments such as increasing track capacity or building new stations. ORR plays a central role in ensuring that the relevant parts of the regulatory and contractual framework are fit for the purpose of providing clear and effective processes for agreeing investments (i.e. enhancements and major renewals) and then ensuring that they are delivered on time and to budget.

In February 2005, we published an initial consultation document on a policy framework for promoting and delivering efficient investments. This would apply irrespective of the organisation making the proposal or the source of funding. The framework aims to overcome some of the perceived barriers to efficient delivery of improvements to the network of complexity, risk aversion and high charges. The framework clarifies Network Rail's role in enhancements and the terms on which it engages with its customers, rail users and funders in facilitating and delivering them. Following responses to this consultation, we will publish final conclusions on the investment framework in the second quarter of 2005–06.

We have provided guidance and interpretation on ORR's policy framework for investments to Network Rail, funders and scheme promoters throughout the year. In particular we have confirmed our intention to add expenditure on two major investment schemes to the RAB, subject to certain conditions being met.

Implementing *The Future of Rail*

Following publication of *The Future of Rail* White Paper, we participated in discussions with key parties on how to give effect to the new role envisaged for Network Rail in terms of whole industry performance, industry planning and RUSs. We considered what changes were desirable to Network Rail's Network Licence to reflect the company's new responsibilities. In March 2005, we consulted on the modifications we proposed, together with an outline of guidelines for Network Rail in developing RUSs. Subject to consultation, we aim to modify Network Rail's Network Licence in the first quarter of 2005–06.

Licence condition 9 - advance provision of timetable information

For a prolonged period, Network Rail has failed to comply with Condition 9 of its Network Licence, requiring temporary timetable changes (for example because of engineering work) to be completed twelve weeks before the date to which they refer. We required Network Rail to produce a recovery plan. In September 2004 we issued a section 55(6) notice, accepting the recovery plan. Network Rail and train operating companies (TOCs) achieved significant improvement in the number of weeks notice, but poor quality timetabling data caused problems for some TOCs. In March 2005, we issued a further section 55(6) notice following additional detailed undertakings from Network Rail to deliver the original recovery plan with improved accuracy.

Interim access charges reviews

During the course of 2004–05, and reflecting the conclusions of the ACR2003, we initiated four interim access charges reviews.

Structure of costs and charges review

We published an initial consultation document in November 2004 on a review of the structure of Network Rail's costs and charges. We also hosted a seminar to discuss in detail the issues covered by the review.

There is wide agreement within the industry that a better understanding is required of infrastructure costs and cost drivers. To that end, we have been overseeing Network Rail's work on developing an infrastructure cost model. The first version of this model, required to inform the development of the Secretary of State's and Scottish Minister's high level output specification (HLOS) for the next periodic review, is due for completion in the spring of 2006. We have appointed consultants to review those costs which vary with traffic levels and the fixed costs of providing a given level of capacity and capability. Depending on the outcome of these studies and following further consultation with the industry, we will decide whether to adjust charges from April 2006.

Signalling review

During the ACR2003, we concluded that Network Rail's signalling strategy was insufficiently developed to support its proposed increase in signalling renewals spending. Therefore, the final conclusions provided for an interim review of signalling costs to be carried out. The review will determine the funding required to renew and maintain the signalling systems in an efficient manner.

Following the industry letter issued in August 2004, an initial consultation document was published in November 2004. It attracted high quality replies from the railway industry and signalling manufacturers that broadly endorsed the strategy laid out in the consultation document. As a result of these responses there is now better representation from suppliers and train operators in the cross-industry Signalling Development Group.

Network Rail published its medium term submission to ORR in April 2005. We have appointed Lloyds Register Rail to support our review of Network Rail's submission. This medium-term signalling review will determine if the sums allowed for signalling in the ACR2003 are appropriate in delivering the required volumes of renewals assuming achievement of the efficiency targets set by ORR. The final conclusions of the medium-term signalling review are planned for October 2005.

Possessions review

Network Rail is proposing to revise its possessions strategy in order to undertake engineering work more efficiently. In response to this proposed strategy, we published an initial consultation document in March 2005 covering:

- an assessment of whether the strategy is efficient from a whole-industry perspective;
- the reduction in access charges which would be payable by train operators as a result of the revised strategy;
- the adequacy of the incentives to encourage Network Rail to plan its work early and efficiently; and
- the adequacy of compensation provisions when trains are disrupted. Further consultations with the industry are planned for 2005–06.

Performance regime review

In 2004–05, we published an initial consultation document and our emerging views on the review of Schedule 8 (the performance regime) contained in franchised passenger train operators' track access contracts. We also hosted an industry seminar to discuss in more detail the issues covered by the review and chaired a smaller industry steering group which has provided direction and monitored progress.

Proposals for change to the performance regime are being made in conjunction with other industry reforms to the contractual matrix, particularly the Network Code.

The industry is taking forward the detailed technical work required to implement proposed changes to the performance regime. The review is due to conclude in August 2005.

Assessment of Network Rail's new financial structure

In February 2004 Network Rail wrote to ORR explaining that it intended to securitise its future income and asking for our support for this financing proposal. Under the proposed securitisation, Network Rail would sell the rights to future income streams to a special-purpose financing vehicle in order to raise debt at a competitive cost of capital.

In May 2004 we published a notice which consulted on modifications to strengthen Network Rail's Network Licence in response to the proposed securitisation. The objective of these modifications was to ensure that Network Rail's long-term debt issuance programme (DIP) did not jeopardise the interests of customers and funders. We also said in the notice that ORR would issue a policy statement on the financing structure once Network Rail's proposals were finalised.

Those modifications to the Network Licence were made in July 2004, and included a limit on Network Rail's borrowings through the securitisation, expressed as a limit on the ratio of its borrowings to its RAB.

However, Network Rail subsequently revised its DIP proposals to a non-securitised structure, underpinned by Government support. These revised proposals required a further modification to the Network Licence to amend the definition of the financing vehicle, in order to make the July 2004 licence modifications effective. We consulted on this further modification in October 2004 as part of our policy statement on Network Rail's financing structure, and then made the further modification in November 2004.



Objective 2

Objective 2 - to ensure the fair and efficient consumption of rail capacity, and promote effective and efficient working relationships between players in the rail industry

Track access applications

Under the Railways Act 1993, we are responsible for the fair and efficient allocation of capacity of railway facilities through our determination of the terms of the access agreements under which train operators gain access to the rail network, stations and light maintenance depots. The Railways Act 1993 provides for applications to be made on an agreed basis between an applicant and Network Rail (or any other facility owner) under section 18. When the applicant has not reached agreement with the facility owner, it can apply under section 17, which gives ORR the power to determine the form of the access contract and direct the facility owner to enter into it. The Railways Act 1993 contains similar provisions covering the approval of amendments to existing agreements (details of directions and approvals are set out in the table in Annex B).

Passenger agreements

At the beginning of the year, we were considering section 17 applications from ScotRail Railways Limited, Thameslink Rail Limited and Grand Central Railway Company Limited, and section 18 applications from South West Trains Limited and South Central Limited. The application from Grand Central was rejected in July 2004. The other applications were approved and directions were issued to Network Rail to enter into the contracts.

During the year, we received and considered a number of applications requesting approval of new track access contracts, in most cases to follow the expiry of the original post-privatisation contracts. We scrutinised rigorously the proposed new contracts before approving them (subject to the parties modifying those contracts as required by ORR). The new passenger contracts approved following this process were those between Network Rail and New Southern Railway Limited, South West Trains Limited, Silverlink Train Services Limited, London Eastern Railway Limited, Great North Eastern Railway Limited and Northern Rail Limited.

At the end of the year, we were considering a further section 17 application from Grand Central Railway Company Limited for services between London and Bradford and London and Sunderland. We were also considering a section 18 application from Heathrow Express for services between Hayes and Harlington, and the Heathrow Tunnel Portal as part of a new Paddington to Heathrow Airport stopping service which it plans to operate in conjunction with First Great Western Link Limited.

Following the publication of the model passenger track access contract in June 2003, all new passenger contracts have been based on the model contract. Out of the 23 franchised passenger train operators, 19 now have model contracts.

Freight agreements

During the year, we considered and approved a number of supplemental agreements covering changes to Network Rail's track access contracts with EWS, Freightliner Limited and Freightliner Heavy Haul Limited, as well as approving a new contract for Fastline Limited and an extension to Advenza Freight Limited's contract until December 2006.

At the end of the year, we were considering applications to: amend Network Rail's contract with Direct Rail Services Limited, to extend its term until December 2009; amend its contract with GB Railfreight Limited, to include new Royal Mail services; and approve an application for a new access contract with Merlin Rail Limited for spot bid rights on Network Rail's network. Additionally, we were considering several applications under section 22A of the Railways Act 1993 made by both Freightliner Heavy Haul Limited and Freightliner Limited to direct Network Rail to enter into

amendments to its access contracts with those freight operators. We were also considering separate applications under section 17 of the Railways Act 1993 made by EWS for access to Royal Mail's depot at Willesden and long-term access to Network Rail's network. Additionally, we were considering an application for an access option for future long-term access rights across EWS-operated network to a freight terminal which is to be constructed over the next year.

During the year we held discussions with port and terminal developers who proposed to secure future long-term access rights under an access option. Applications for those access options had not been received by the end of the year.

Model clauses for track access contracts and related issues

In March 2004, we published our final conclusions on a model freight contract along with the final version of the contract itself and a document setting out the criteria and procedures we intend to follow in dealing with applications for the approval of freight track access contracts. On 31 January 2005 we issued retrofit notices to all freight operators and Network Rail to incorporate into existing freight access contracts provisions contained in the freight model contract. The retrofit process provided an opportunity for us to incorporate necessary changes into the freight model contract which we will re-issue. All new freight access contracts relating to access to Network Rail's network will be based on the revised model contract.

We published our policy on moderation of competition in May 2004. The document sets out the circumstances in which we expect to approve contractual protection for a passenger train operator where restricting or preventing future new competing services is important in order to facilitate investment. It also explains how we intend to deal with applications for rights to run new competing services where incumbent operators have no such protection.

Following further consultation with the industry in July and December 2003, we published our final conclusions on changes to access rights in June 2004. These included proposals on the voluntary and mandatory surrender or adjustment of access rights and a 'use it or lose it' mechanism to deal with rights that an operator is not using at all or is using only very infrequently. A number of the mechanisms were freight-specific, including a mechanism to ensure that rights switch between freight operators when the associated freight haulage contract is lost by the incumbent and won by another operator. These new mechanisms will ensure that all operators - or all freight operators, where mechanisms are specific to freight - are treated alike. It will also mean that the mechanisms can be modified relatively quickly in the light of experience.

The document also made provision for these mechanisms to be put in place by incorporating a new part, Part J, into the Network Code by means of a notice served under Condition C8 to the Network Code (modifications by ORR). The C8 notice, which was served on 2 July 2004, brought the provisions into effect on 10 January 2005.

In July 2004, we also published a consultation document on a model contract for parties wishing to connect facilities, such as freight sidings or heritage railways, to the Network Rail network. We also held a seminar for the industry in October 2004 to discuss the issue. We are now considering the responses received both from the consultation and the seminar and expects to publish our final conclusions shortly.

In *The Future of Rail* White Paper, the Government stated that it would "ensure that long-term access agreements are put in place to provide the stability needed to secure commercial contracts, and the ORR will facilitate this". Against this background, and the requirements of relevant EU legislation, we are reviewing our

policy on the duration of track access contracts and published a consultation paper in February 2005. The paper explains the reasons for consultation and seeks the views of interested parties on the proposals and the key issues that need to be addressed when we consider such applications. ORR intends that the proposed policy will balance the need for stability and certainty with conditions which will encourage the development of new and innovative services to meet the needs of passengers and freight customers. We expect to publish our policy statement shortly.

Network Code reform

Work on the reform of the Network Code has been under way since Autumn 2003. An interim consultation document was published in March 2004 and industry-working groups were established to take the work forward. In June 2004, we published for consultation our emerging conclusions and proposals for addressing priority issues as part of the first phase of the programme of reform. We completed the last stage of the first phase on 2 July 2004 when we published the notice incorporating the proposals for change into the Network Code.

Phase 1 of the reform work which came into effect on 10 January 2005 (in the case of Part F from 1 April 2005), made sound and worthwhile changes mainly of a clarificatory and procedural nature, to make the contractual processes easier to understand and work better. These improvements will benefit users, promote efficiency and economy and the development of the network, and make business planning far stronger and more confident. They include modifications to Part A (organisation of the code and definitions), Part C (changes to the code), Part F (vehicle change), Part G (network change) and Part H (management of operational disruption). They also include the introduction of two new parts to the code, Part K (information) and Part M (appeals to the Office of Rail Regulation). In a number of cases the phase 1 changes contain suspense provisions or 'turn up' or 'turn down' arrangements to allow for further consideration of issues and flexibility in implementation.

Phase 2 of the reform work is considering questions about the economic architecture of the relationship between infrastructure provider and infrastructure user, and the structure and breadth of coverage of the Network Code. This work is industry led. Network Rail and representatives of train operators are taking the process forward through a steering group and a number of individual working groups to take forward specific elements, including the development of a Railway Operational Code (ROC), a new timetabling process (Part D), improved procedures for dealing with vehicle change (Part F) and network change (Part G) and a revised set of dispute resolution rules. ORR and other stakeholders, including DfT, the SRA and freight operators, are represented on these groups and throughout the year we continued to participate and play an active role in taking this work forward with the industry through encouragement, engagement and guidance. Work is well in hand on proposals for revising Parts F, G, K and L and the new ROC. We expect this work to be completed by March 2006.

At the end of the year, we approved the industry's agreed proposals for change to Part D of the Network Code, and the ADRR.

Stations Code

We continued to develop proposals to replace the current cumbersome and bureaucratic contractual arrangements at stations with a more streamlined, efficient and effective structure during 2004–05. Final policy conclusions were published in June 2004, and a further draft of the Code itself, reflecting those conclusions, was placed on ORR's website in October 2004. We are currently considering a range of small drafting issues raised in response to the October draft and a final Code will be available in May 2005.

We established a cross-industry Stations Code Implementation Group, which is overseeing the implementation project plan and dealing with other implementation issues. The Group meets on a bi-monthly basis.

An important part of the implementation work programme is the proposed undertaking of a review of the structure of station charges. This is necessary in order to address the financial consequences of implementing a new, more efficient division of maintenance, repair and renewal responsibilities at stations. An initial consultation document, proposing the formal initiation of this review, was published on 15 April 2005.

Station access casework

During the year, we were asked to approve and direct a large number of individual new station access agreements, and to approve amendments to a wide range of existing agreements (see Annex B). A significant proportion of new agreements were associated with the franchise replacement programme, whilst the majority of the amendments were connected with the implementation of station and route investment schemes. In making these directions and approvals, we have sought to ensure that access to station services and facilities has been provided on a fair and equitable basis and at an appropriate economically efficient price.

Depots Code

Following an initial review of the depot access regime, we published a consultation document setting out proposals for simplifying and streamlining the contractual arrangements at light maintenance depots. This consultation covered the following key areas:

- the contractual framework;
- responsibilities for maintenance and repair;
- the processes for agreeing changes to a depot and changes to depot access documentation;
- the incentive regime; and
- the remedies available when things go wrong.

During the consultation period, we held a series of industry seminars to discuss issues raised in the consultation, explain our thinking further and assist industry parties in preparing their responses.

The consultation closed on 18 February 2005. Consultation responses can be found on ORR's website at <http://www.rail-reg.gov.uk/server/show/ConWebDoc.6993>, and the work will be taken forward, in close liaison with the rail industry, during 2005–06.

Depot investment guidelines

Discussions between ORR and the rail industry during 2003–2004 revealed that there was considerable uncertainty about the most appropriate arrangements and best practice when undertaking investment projects at light maintenance depots. It was agreed that we would chair a focused industry working group (reporting to the ATOC-chaired depot industry working group) with the objective of drawing up, for publication, some best practice guidelines. The group included representatives from Network Rail, the SRA, ORR and train operating companies.

The guidelines, which reflect the experience of the industry to date and encompass lessons learnt are now in final draft form, and can be found on ORR's website at http://www.rail-reg.gov.uk/upload/pdf/inv_guidelines.pdf.

Depot access casework

As with stations, we have continued to direct and approve entry into new depot access agreements and to approve amendments to existing depot access agreements. Much of this activity has been associated with investment in new depot facilities and capacity (for example, approval of the access agreements for a new depot at Bedford).

Licensing

During the year we published updated *Guidance For Applicants* and developed new *Guidance on Licence Exemptions*. The latter followed industry consultation on proposals for simplifying the licence exemption application process, including no longer carrying out a financial assessment of licence exemption applicants as a matter of routine. This guidance was published and the streamlined exemption application process took effect from 31 March 2005.

During 2004–05, the number of closed licence and licence exemption cases increased by over 40% on 2003–04 figures. Details of licence and exemption applications, changes of control and revocations are set out at Annex B. In addition, we handled around 80 wide-ranging enquiries on licensing matters. This workload was carried out against a background of activity in the light of the Government's Rail Review and the subsequent Railways Act 2005, which provides for ORR to assume responsibility for consumer protection licence conditions on the abolition of the SRA.

Significant cases included the Northern and ScotRail franchise renewals, with licences granted to the successful bidders. Licence exemptions were granted predominantly to operators of heritage rail systems and maintenance companies operating non-passenger vehicles within possessions.

Rail Safety and Standards Board

The establishment of a new rail industry safety body was recommended by Lord Cullen in his second report into the Ladbroke Grove rail accident. RSSB began its work on 1 April 2003, following a development process led by the Office of the Rail Regulator. RSSB, in addition to assuming most of the functions previously undertaken by Railway Safety, exercises a number of other functions to assist industry members to collaborate in the promotion of health and safety, including, importantly, providing safety leadership.

At the end of 2004, at the request of RSSB and its rail industry members, we led a review of the role and functions of RSSB. The aim of the review was to ensure that the arrangements put in place in 2003 remained fit for purpose in the light of the changes in the rail industry environment following the publication of *The Future of Rail White Paper*. The review concluded that there remained a need for an industry body to carry out certain safety and standards related functions and that this body should be independent of any individual industry company or grouping. The review established a number of principles in relation to the functions RSSB should undertake. A report of the review was published on 7 February 2005.

Standards Strategy Group

When RSSB started its work the need was identified for a body to provide it with support and advice and to facilitate achievement by the industry of optimum safety and economic solutions to interface issues. In response, the cross-industry Standards Strategy Group (SSG), under the chairmanship of the SRA, was established. We have continued to play an active role in the work of SSG, which, in particular, has provided the leadership for the creation of a full suite of System Interface Committees to assist the railway industry in managing all aspects of system interfaces in the most cost effective and efficient way. Following the review of RSSB's role and functions, a review of the future role of SSG was commenced.



Objective 3

Objective 3 - to promote competitive markets for the benefit of users of the railway and to prevent anti-competitive agreements and practices in the rail industry

Competition Act 1998

ORR's Competition Act 1998 powers are exercised concurrently with the Office of Fair Trading (OFT) in respect of agreements or conduct relating to the supply of services relating to railways.

During the year, we received 48 new requests to investigate complaints about the supply of railway services. Of these, five were transferred to other public authorities such as the SRA or the HSE, as they appeared to be best placed to deal with the issues raised by the complainants. Of the remaining 43 complaints, nine were transferred within ORR to be dealt with using our powers under the Railways Act 1993; 25 complaints were closed after an initial review suggested that the conduct complained about did not merit a full investigation under the Competition Act 1998; and the remaining ten were still under consideration at the end of the year.

We published two formal decisions under the Competition Act 1998. The full text of these decisions is available on the ORR and OFT websites. We also issued a *Statement of Objections*.

Competition casework

In June 2004, we issued our decision in relation to a complaint by the Sub-contractors Welding Federation against Network Rail. The allegation centred on Network Rail's revised procedures for procuring rail welding services which, the Federation claimed were contrary to the Chapter II prohibition (abuse of a dominant position) of the Competition Act 1998.

Following a review of the quality of rail welding on its network in 2003, Network Rail concluded that the management of safety and quality of rail welding would be improved by the introduction of new performance standards and a competitive tendering process to produce a short list of approved rail welding suppliers. This, in effect, led to a reduction in the number of rail welding suppliers.

We concluded that Network Rail's revised procurement procedures were an appropriate and proportionate attempt to address legitimate concerns regarding the quality of rail welding on its network. Further to that, the pre-qualification criteria introduced to short-list candidates were transparent, fair, non-discriminatory and objectively justified by these quality and safety concerns.

Consequently we did not consider there were reasonable grounds for suspecting that Network Rail had breached the Chapter II prohibition.

In July 2004, we issued our decision in relation to complaints made by agency suppliers of safety critical personnel to contractors working on the London underground, in July 2002. Our subsequent investigation found that the London Underground Group's approved supplier policy was justifiable on safety grounds and that it was unlikely to have an adverse effect on competition or consumers. We therefore considered that the London Underground Group's approved supplier policy for the procurement of safety critical staff had not infringed the Chapter II prohibition.

A *Statement of Objections* was issued to EWS on 6 May 2004, stating that we proposed to make a decision that EWS had infringed the prohibition contained in Chapter II of the Competition Act 1998, through its imposition of contracts with exclusionary effect and via exclusionary pricing practices in relation to coal-haulage by rail. That case continues.

In May 2004 we also closed our file on two complaints considered under the Competition Act 1998 where neither an infringement nor non-infringement decision had been reached. These cases dealt with alleged anti-competitive conduct by EWS affecting third-party purchasers of locomotives from General Motors Corporation and a complaint concerning EWS's practices and policies in relation to second-hand locomotive sales.

EC Regulation 1/2003

On 1 May 2004, the EC Modernisation Regulation came into force. This decentralises the application of Articles 81 and 82 of the EC Treaty to National Competition Authorities (NCAs) and the courts of the Member States. Article 35 of the Modernisation Regulation requires each of the Member States to designate NCAs for the purpose of applying Articles 81 and 82. We have been designated as a NCA for this purpose. When applying the Chapter I and Chapter II prohibitions, we will also apply Articles 81 and 82, where there is an actual and potential effect on trade between Member States.

Mergers

During the year, the OFT requested advice from us on three acquisitions affecting the rail industry, namely the Northern, Intercity East Coast and Integrated Kent franchises. We also provided advice to the Competition Commission on the Greater Anglia and Intercity East Coast franchise acquisitions, following the OFT's decision to refer both for a detailed investigation by the Competition Commission.

Informing and influencing the development and implementation of EU rail legislation

Implementing EC Directives

Work to implement the three EC Directives making up the first infrastructure package¹ started in earnest towards the end of 2004. Great Britain is already compliant with many elements of the package, including: the separation of essential functions between infrastructure managers and operators; the establishment of a regulatory body; and transparency in capacity allocation and charging matters.

During the year, we have been actively involved in a range of DfT-led working groups looking at some of the outstanding issues associated with implementation. These include matters concerning European licensing requirements for train operators, the opening up of access to service facilities and ports, and the potential collapse of the International Rail Regulator (IRR) role into that of ORR. We have directly contributed to the development of draft regulations to implement the first package and the supporting consultation documentation, and have had regular dialogue on implementation matters with industry contacts.

We continued to contribute to the DfT programme of work to implement the interoperability² Directives in Great Britain. This included formally responding to the DfT consultation in April 2004 and participating in a Government/industry forum to deal with practical issues associated with implementation in the UK.

¹ Directives 2001/12/EC, 2001/13/EC and 2001/14/EC. Directive 91/440/EEC is amended by 2001/12/EC, Directive 95/18/EC is amended by 2001/13/EC and Directive 95/19/EEC is replaced by 2001/14/EC.

² Directives 2001/16/EC and 2001/50/EC.

The second package³ covers safety matters, the alignment of the high speed and conventional interoperability requirements, freight market liberalisation, the establishment of a European Rail Agency and accession to the Convention concerning International Carriage by Rail (COTIF) and was adopted at the end of April 2004. Since adoption, we have focused efforts on negotiating with the DfT and the European Commission (EC) to secure a proportionate approach to the implementation of COTIF's uniform rules for contracts for the use of infrastructure in order to ensure that the impact on model contracts is minimised.

Contributing to the development of new EC Directives

The proposed third package⁴ includes measures covering passenger market liberalisation, train driver licensing, international rail passengers' rights and obligations, and freight quality contracts. We have worked with the DfT to develop negotiating positions on these four measures and helped prepare a regulatory impact assessment and initial consultation document. European-level negotiations commenced on two elements of the package during 2004–05: train driver licensing and passenger rights.

We continued to attend and contribute to the Developing European Railways Committee, chaired by the EC, and participated in relevant sub-groups of the Committee looking at particular issues associated with implementation of the first package such as the role of the regulatory bodies, charging matters, and licensing of train operators. In June 2004, we hosted a successful two-day workshop for European rail regulators attended by representatives from 21 out of 25 Member States. The workshop discussed common areas of interest and shared good practice.

We continued to keep a watching brief on other developments in Europe that may have an effect on its work and/or the industry, providing contributions to the DfT and other Government departments as required. Areas of interest included a European Noise Directive and proposed measures covering the provision of services and public service contracts.

International access and licensing

There was very little activity involving IRR during the year. Advice was provided to the industry on general international access and licensing matters including to EWS regarding the scope of its international licence.

General European/international issues

We participated in the House of Lords enquiry into European Union rail policy on liberalisation of international rail freight, which reported in March 2005. We also received a number of visits during the year from representatives of other countries including Korea, Poland, The Netherlands, South Africa and France, who all wished to hear about the UK's rail and regulatory experience.

³ Directives 2004/49/EC (amends Directives 95/18/EC and 2001/14/EC), 2004/50 (amends 96/48/EC and 2001/16/EC) and 2004/51/EC (amends Directive 91/440/EEC), Regulation (EC) No. 881/2004, 2003/0269 (CNS).

⁴ Proposals 2004/0047, 2004/0048 (COD), 2004/0049 (COD) and 2004/0050 (COD).



Track Access
OUT

Corporate governance

Since a statutory Board replaced the post of Rail Regulator on 5 July 2004, we have put in place the necessary supporting arrangements to enable the Board to operate effectively and to ensure a smooth transition to the new organisational structure. The Board published its Rules of Procedure, and subsidiary committees to the Board have been established. These steps have ensured that we continued to exercise efficient and robust decision-making.

Business planning and finance

ORR is a Non-ministerial Government Department, currently funded through charges to licence holders. The totals of expenditure and income have to be planned through the Treasury and accounted for to Parliament. The Chief Executive, Keith Webb, is the Accounting Officer for these funds.

	02–03 Outturn £'000s	03–04 Outturn £'000s	04–05 Forecast £'000s	05–06 Plan* £'000s	06–07 Indicative* £'000s	07–08 Indicative* £'000s
Administration costs	13,573	14,549	13,010	16,501	16,001	15,701
Licence fee income	13,128	14,547	13,009	16,500	16,000	15,700
Net administration costs	445	2	1	1	1	1
Capital	263	339	228	500	500	500

* Figures provided for 2005–06 to 2007–08 do not include the estimated costs of the transition of rail health and safety regulation responsibility from HSC/E to ORR.

Monitoring and reporting against business plan activities

Our senior team continued to receive monthly reports on the office's progress in delivering business plan activities. The reports were further developed during the first quarter of 2004–05 to include an assessment of risks to the achievement of activities.

Risk management

Throughout 2004–05, we have maintained a risk register containing the risks to the delivery of its objectives and mitigating control actions in place. During the fourth quarter 2004–05 we carried out a review of the high-level risks to the office in the light of the proposals outlined in *The Future of Rail White Paper*. The revised risks and control actions have been set out in our Business Plan for 2005–08 and will continue to be reviewed on a regular basis.

During the third quarter 2004–05, we developed a strategy for the management of risk, setting out the office's approach, and the roles of staff in the risk management process. The Risk Management Strategy draws upon current best practice from a range of organisations and was developed in consultation with the Audit Committee. The Strategy will be implemented during the first quarter of 2005–06.

The Audit Committee received quarterly reports on risk management throughout 2004–05. These reported on progress with the development of the office's approach to risk management, and the current risk register and control actions, which are updated on an ongoing basis. Our senior team has received updates on risks to the delivery of Business Plan activities through monthly reports against the Business Plan.

Audit Committee

To reflect its new organisational structure, we established a new Audit Committee comprising an independent Chairman and two non-executive directors. Executive directors also attend the Audit Committee along with representatives from ORR's Internal Auditors and the National Audit Office. The Audit Committee acts in accordance with Terms of Reference established by the Board, reviewing and advising on: the adequacy of our financial reporting process; our system of internal controls; and our risk management and audit arrangements.

Resource management

We reviewed the terms of reference for our Budget and Consultancy Committee (BCC), which is now chaired by the Chief Executive and made up of all directors and deputy directors. The BCC serves to: monitor and approve the application of our resources; determine the level of our budget required to deliver the Business Plan objectives, subject to approval by the Board; and direct the office's financial and procurement strategy. The Head of Resources and the Head of Finance report to the BCC monthly. The Board also reviews our use of resources through a monthly management report detailing current and capital expenditure, income and payment performance.

Prompt payment initiative

We are committed to the prompt payment of our suppliers and seek to pay all valid invoices within 30 days of receipt. During 2004–05, 95.33% of invoices were paid within the target timescales.

Communications

During the reporting year, we published 52 press announcements and 40 documents. Thirteen media interviews have been given by the Chairman since his appointment in July 2004. In the course of the year, our library welcomed 64 external visitors and dealt with 1879 external enquiries.

Customer correspondence and Freedom of Information

We receive public correspondence on a variety of issues relating to the provision of railway services. These typically include punctuality and reliability of train services, the cost and complexity of rail ticketing, the quality and cost of train and station facilities, safety and personal security, timetabling issues and staff conduct. In the reporting year, we received an estimated 1,286 items of correspondence, approximately 94% of which received a full response within our target time of 20 working days.

We have a dedicated Customer Correspondence Team (CCT). The CCT handles all public correspondence and investigates cases that directly pertain to Network Rail's stewardship of the national rail network. We encourage contact by letter, telephone and by e-mail (contact.cct@orr.gsi.gov.uk); we have a minicom facility and are ready to respond to blind or partially sighted correspondents on audiotape or with letters in large print.

Freedom of Information requests

We have received 35 requests for information under the Freedom of Information Act 2000 (FOI) since it became effective on 1 January 2005. All except one received a full response within the 20 working day limit and in that case a longer timeframe was agreed with the applicant.

Website and intranet

Our website continued to provide an accessible source of information on many aspects of Britain's railway. It has also been a valuable tool for communicating with our stakeholders, including through wider consultation on ORR policies and the publication of all our documents. The website now also contains information about making requests to ORR for information under the FOI.

In April 2004, the Communications Team launched ORRacle, our first intranet. This now has some 400 pages, providing staff with industry news, details of FOI requests, and the ability to keep up to date on our current workstreams.

The screenshot shows the Office of Rail Regulation website homepage. At the top, there is a search bar and a navigation menu with links for HOME, SITE MAP, GLOSSARY, FAQ, LINKS, VACANCIES, CONTACT US, and FOI. The main content area is divided into several sections:

- Welcome:** A message stating that the Office of Rail Regulation (ORR) was established on 5 July 2004 by the Railways and Transport Safety Act 2003. It replaces the Office of the Rail Regulator. It also mentions that the ORR is the railway industry's economic regulator and licenses operators of railway assets.
- Latest publications:** A section listing recent publications, including:
 - Notice of proposed modifications to Network Rail's network licence: Industry performance and planning and route utilisation strategies:** Consultation closes on 28th Apr 2005.
 - Structure of costs and charges review: Emerging views on key issues:** Consultation closes on 06th Apr 2005.
 - Better information, better decisions: ORR's proposed strategy for developing a rail industry information network:** Consultation closes on 28th Apr 2005.
 - Railway licensing: guidance on licence exemptions:** Consultation closes on 31st Mar 2005.
 - The structure of station long term charges:** Consultation period ends on 15th Apr 2005.
 - The possessions review: initial consultation document:** Consultation period closed on 6th May 2005.
- Featured items:** A list of key documents and reports, such as 'Network licence updated for Network Rail - Revised 9 November 2004 (243 KB)', 'Corporate strategy (278 KB)', 'ORR business plan 2005-06 (293 KB)', and 'Annual Report 2003-2004 (526 KB)'.

The footer of the page includes the ORR logo and the text 'This site is powered by ALLEXIS'.

Information technology

Over the reporting year, we have maintained a secure and robust operating environment. We continue working towards compliance with the ISO 17799 security standards and the increasing implementation of Information Technology Information Library (ITIL) Service Management standards. The key services provided by the Information Systems Team (IS) remain centred around electronic document and records management and website publishing and content management systems. During 2005–06, IS will seek to enhance these services.

From a technical perspective, IS completed projects to replace our desktop hardware and introduce an up to date operating system. Server and network hardware is progressively being replaced to increase our systems' capacity, response and reliability. Our e-mail system has also undergone upgrade during the year. During 2005–06, IS will fully support our initiatives to create a comprehensive 'Information Network' for the rail industry.

Human resources

Investors in People

We have a fully committed and competent workforce capable of delivering our business objectives. Our commitment to the continuing development of our employees was recognised when the restructured organisation successfully achieved Investors in People re-accreditation in October 2004.

Workforce profile

The table below shows ORR's workforce profile as at 31 March 2005.

	SCS*	Level 1	Level 2	Level 3	Level 4	Total
Total staff	9	10	35	54	15	123
Male	6	7	30	28	6	77
Female	3	3	5	26	9	46
White	9	10	34	40	4	97
Ethnic Minority	0	0	1	14	11	26
Disabled	0	0	2	3	1	6

* Senior Civil Service (excludes Chairman and Non-executive Directors)

Recruitment

We have continued to attract and retain skilled and talented staff. There are systems in place to ensure that recruitment is carried out on the basis of fair and open competition and selection on merit in accordance with the Civil Service Commissioners Recruitment Code. These systems are subject to internal checks. We have not made any applications for exceptions to the Code. The table below shows the number of appointments made through external recruitment during the reporting year.

	SCS	Level 1	Level 2	Level 3	Level 4	Total
Total appointments	1	1	3	0	3	8
Male	0	1	2	0	2	5
Female	1	0	1	0	1	3
White	1	1	3	0	2	7
Ethnic minority	0	0	0	0	1	1
Disabled	0	0	1	0	1	2

Annex A: Board and senior team

ORR Board



Chris Bolt
Chairman
(Remuneration
Committee)



Peter Bucks
(Audit
Committee)



Jeffrey Jowell QC
(Remuneration
Committee)



Jane May
(Audit
Committee)



Chris Stokes
(Remuneration
Committee)



Jim O'Sullivan
Appointed 1 April
2005

The Audit Committee operates under the independent chairmanship of Tim Head.

Chief Executive



Keith Webb

Executive Directors



Michael Beswick
Policy Unit



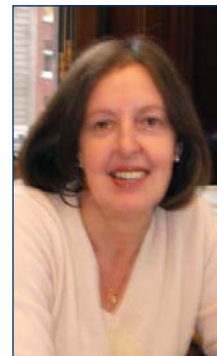
Juliet Lazarus
Legal Services



Tim Martin
Industry
Monitoring and
Analysis



Lynda Rollason
Head of Corporate
Services/Change
Management



Sarah Straight
Rail Markets,
Passengers and
Freight



John Thomas
Regulatory
Economics

Annex B: Casework activity tables

Access contracts: 1 April 2004 - 31 March 2005

	Track	Stations	Depots
New access agreements approved under section 18 of the Railways Act 1993	21	102	29*
Agreements directed under section 17 of the Railways Act 1993	2	0	0
Amendments to existing agreements approved under section 22 of the Railways Act 1993	112	59	56*
Amendments to existing agreements approved under section 22A of the Railways Act 1993	4	0	0
Amendments to existing agreements covered by general approval	40	230	44
Directions varied under section 144(3) of the Railways Act 1993	0	1	0

*Figures for sections 18 and 22 include the approval of one novation agreement, which involves an approval under both sections 18 and 22 of the Railways Act 1993

Licence and exemption applications received: 1 April 2004 - 31 March 2005

Applicant (licence)	Date Received	Passenger licence	Non-passenger licence	Station licence	Light maintenance depot licence	Network licence
Northern Rail Limited	24.06.04	•	•	•	•	
First Northern Railway Limited	25.06.04	•	•	•	•	
First ScotRail Limited	28.06.04	•	•	•	•	
Seco-Rail Limited	09.08.04		•			
Carillion Construction Limited	27.08.04		•			•
First London, Scottish and North East Railway Limited	23.12.04	•	•	•	•	
inter city-railways Limited	04.01.05	•	•	•	•	
LYNE Limited	12.01.05	•	•	•	•	
Applicant (exemption)						
English, Welsh & Scottish Railway Limited	26.04.04				•	
Dean and Dyball Construction Limited	28.05.04		•			
Avondale Environmental Services Limited	09.08.04		•			
Carillion Construction Limited	27.08.04				•	
Somerset & Dorset Railway Heritage Trust	16.11.04	•	•	•		•
Kier Construction Limited	06.01.05					•
Cambrian Railways Trust	20.01.05	•		•		•
Ayrshire Railway Preservation Group	31.01.05	•	•	•	•	•
Laing O'Rourke Holdings Limited	10.02.05		•			
Ribble Rail Limited	03.03.05			•	•	

Change of control approved by ORR: 1 April 2004 - 31 March 2005

Licence holder	Approved (date)	Control by
First Engineering Limited	23.06.04	Babcock International Group PLC
First Keolis Transpennine Limited/New Southern Railway Limited/Thameslink Rail Limited	09.09.04	3i PLC
Freightliner Limited/Freightliner Heavy Haul Limited	24.01.05	Freightliner Group Limited

Licences revoked by ORR: 1 April 2004 - 31 March 2005

Licence holder	Date	Passenger licence	Non-passenger licence	Station licence	Light maintenance depot licence	Network licence
Cardiff Railway Company Limited	27.04.04	•	•	•	•	
Anglia Railways Train Services Limited	12.05.04	•		•	•	
Thames Trains Limited	06.10.04	•	•	•	•	
Great Eastern Railway Limited	28.10.04	•		•	•	
North Western Trains Company Limited	01.02.05	•	•	•	•	
Arriva Trains Northern Limited	14.03.05	•	•	•	•	
ScotRail Railways Limited	15.03.05	•	•	•	•	
GT Railway Maintenance Limited	18.03.05		•			•

Licence exemptions revoked by ORR: 1 April 2004 - 31 March 2005

Licence exemption holder	Date
The Vale of Glamorgan Railway Company Limited Licence Exemption 1998	01.04.04
The Vale of Glamorgan Council Licence Exemption 2001	01.04.04
Certas PLC Licence Exemption 2002	21.05.04
Transrail Freight Limited (LMD) Licence Exemption 1995	26.10.04
English Welsh & Scottish Railway Limited (LMD) Licence Exemption 2003	26.10.04
GT Railway Maintenance Limited (LMD) Licence Exemption 2000	18.03.05
Kier Construction Limited Licence Exemption 2004	23.03.05

Licences and exemption applications withdrawn by applicant: 1 April 2004 - 31 March 2005

Applicant (licence)	Date	Passenger licence	Non-passenger licence	Station licence	Light maintenance depot licence	Network licence
Arriva Trains (London & Anglia) Limited	25.06.04	•	•	•	•	
DGUK	09.08.04		•			
Grant Rail Limited	19.11.04		•			
First Northern Railway Limited	22.12.04	•	•	•	•	
First London, Scottish and North East Railway Limited	23.03.05	•	•	•	•	
Applicant (exemption)						
AWG Rail Services Limited	28.05.04		•			
Bideford Railway Company Limited	03.06.04	•	•	•		•
Birse Rail Limited	26.08.04		•			
Bridgend Valleys Railway Company Limited	03.09.04	•	•	•	•	•

Licences and exemptions granted by ORR: 1 April 2004 - 31 March 2005						
	Date	Passenger licence	Non-passenger licence	Station licence	Light maintenance depot licence	Network licence
Applicant (licence)						
First ScotRail Limited	11.10.04	•	•	•	•	
Advenza Freight Limited	20.10.04		•			
Northern Rail Limited	26.11.04	•	•	•	•	
Seco-Rail Limited	27.01.05		•			
Carrillion Construction Limited	07.03.05		•			•
Applicant (exemption)						
Vale of Glamorgan Railway Company Limited	01.04.04	•	•	•	•	•
Kier Construction Limited	05.04.04					•
Avon Valley Railway Company Limited	22.04.04	•	•	•		•
Elec-Track Installations Limited	23.04.04		•			
Alfred McAlpine Capital Projects Limited	26.04.04		•			
Brigden Enterprises Limited	11.05.04		•			
Catena Rail Limited	09.07.04		•			
Weardale Railways Limited	16.07.04	•	•	•	•	•
Cambrian Railways Society Ltd	05.08.04				•	
Railway Drainage Limited	11.08.04		•			
WyvernRail PLC	23.08.04	•	•	•	•	•
Dean and Dyball Construction Limited	24.08.04		•			
English Welsh & Scottish Railway Limited	08.09.04				•	
Avondale Environmental Services Limited	09.02.05		•			
Carillion Construction Limited	07.03.05				•	
Kier Construction Limited	23.03.05					•

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