

Reform of access contractual arrangements – industry seminar – 15 February 2012 – ORR’s London office

Attendees: Geoff Appleby (Department for Transport), Candida Basilio (South West Trains), Jason Bird (Freightliner), John Beer (First Capital Connect), Helen Cavanagh (Northern Rail), Jonathan Chatfield (Network Rail), Ian Cleland (Network Rail), Andy Cooper (CrossCountry), Jonathan Cooper (Alliance Rail), Graham Cross (Chiltern), John Czyrko (London Midland), Chris Deal (Transport for London), Sam Gibbins (South West Trains), Jonathan Goode (Arriva Trains Wales), Paul Hebditch (Network Rail), Mike Hewitson (Passenger Focus), Kai Hills (Southern), Rob Hodgkinson (Virgin West Coast), Bob Ingram (DP World), Tim Jackson (Freightliner), Natalie Jobling (Network Rail), Raj Kalirai (Southern), Ian Kapur (GB Railfreight), Chinua Labor (HS1), Lanita Masi (East Midlands Trains), David Masterman (Tees Trains), Chris McRae (Freight Transport Association), Shona Nettlingham (Southeastern), Nigel Oatway (DB Schenker), Gil Okai (Tees Trains), Mike Price (First ScotRail), David Prescott (Transport Scotland), Jonathan Pugh (ATOC), Matthew Rheinberg (Transport for London), Paul Richardson (Crossrail), Catherine Rowe (Greater Anglia), Maggie Simpson (Rail Freight Group), Jonathan Smith (SNR Denton), Sam Spence (Eurostar), Peter Swatridge (Network Rail), Simon Taylor (East Midlands Trains), Leigh Thompson (ATOC), Francis Tyrrell (Bircham Dyson Bell) and Andy Wylie (Hull Trains).

Opening address

Richard Price (ORR Chief Executive) welcomed attendees to the seminar, which followed the launch of the consultation document on 25 January. He discussed the context of the Value for Money study, and what he believed that the rail industry’s part was in making reform happen – whether it be ORR, Network Rail, the Rail Delivery Group, funders or operators.

He stressed the importance of continuing collaboration, building on the informal collaboration which had informed so much of the content of the consultation document.

He outlined the ‘quick wins’ nature of the proposals in the consultation document and the increased flexibility and responsiveness that these reforms would bring. Richard also noted that he did not believe in excessive regulation and envisaged a situation where ORR would still perform its functions whilst allowing the industry more scope to take responsibility for its own contractual arrangements.

Richard encouraged attendees to contribute to the seminar, and in their formal consultation responses. He also invited attendees to get involved in the action plan and to volunteer to take agreed actions forward. He then invited questions.

Mike Price asked what Richard Price believed was the fundamental problem we were attempting to solve. Richard Price replied that the current regime could be overburdensome and undemocratic and that there was too much detailed paperwork and not enough flexibility to allow the industry to bring its costs down.

Brian Kogan (Deputy Director, Railway Markets and Economics, ORR) added that it was difficult to determine the detail, given that we received a significant amount of anecdotal representation from a wide range of sources, without much concrete evidence.

Andy Cooper questioned whether the industry has the necessary courage to do what would be necessary to bring about reform.

Richard Price believed that the industry did, and said that reforms of the franchising process would be just as important as the work done here to reduce regulatory intrusion. Part of this courage had to be manifested through ORR stepping back and trusting Network Rail to do its job and in putting faith in operators to allow them to determine the outcome which best suited their needs.

Welcome, aims of the seminar

Brian Kogan advised that he was chairing the session and provided an overview of the day's agenda. He explained that the format of the day was aimed at addressing criticism over the length and pace of previous events, as well as criticism that there was not always time to share views and cover all of the important issues. Attendees were invited to record their thoughts on the seminar's format on the feedback sheets provided.

David Robertson (Head of Track Access, ORR) provided some background information to this reform project, saying that ORR was attempting to respond to the outcomes of recent work such as the reviews of access planning and access policy and the East Coast Main Line lessons learned review. The reform of contractual arrangements work began with a letter to the industry on 23 September 2011 outlining ORR's decision not to approve any proposed extensions to access rights beyond the end of December 2013 in their current highly prescriptive form. This letter was followed up with a further letter on 29 September 2011, which outlined ORR's proposed next steps and invited industry parties to meet with ORR.

ORR undertook a series of informal meetings with stakeholders throughout October-December 2011 to get to the heart of the issues which the industry was experiencing. It was understood that this approach was well-received. Some steps had already been taken, including an updated edition of ORR's criteria and procedures document and revised application forms. Comments were invited on these.

David Robertson highlighted the two deadlines for responses – 7 March 2012 for questions related to schedule 5 of the track access contract, and 18 March 2012 for all other questions. It was hoped that respondents would make commitments regarding taking ownership for some items in the action plan, as it would not be appropriate or possible for ORR to lead on every action.

The consultation document

David Robertson thanked informal consultees for their comments and for the opportunity to meet with them. He added that the consultation document had been published in a new house style, which, it was hoped, was clearer and more accessible. He noted that the document had been written in a 'plainer English' style which was also intended to improve accessibility. Comments on the format, content and style of the document would be welcome.

Consultation issues

Jonathan Pugh raised issues around the purpose and function of the consultation and seminar. He expressed ATOC members' general concern over the potential disconnect between a number of

parallel initiatives, such as franchising and the wider implications of the Value for Money study. He noted that the Rail Delivery Group was tasked with taking on a lot of the work. He also questioned whether scarce resources within industry parties were best deployed on taking forward consultation issues. Whilst there is industry support for change where clear benefit can be demonstrated, he remarked that this review seemed focussed on process over outcomes.

David Robertson agreed that this reform work was focussed on process, but that outputs would come through the removal of red tape and making life easier for all parties. The specific outputs will be detailed in the agreed action plan. David Robertson also agreed that there did seem to be an appetite for change, especially in terms of ORR stepping back and handing more responsibility to the industry.

Andy Cooper said that it was important to identify where costs fell, and that he did not see how TOCs would make large cost savings as a result of this work.

David Robertson said that it was important that ORR hear from TOCs where savings could be made. As ORR was not a TOC, it was not always best placed to make that assessment and relied on operators telling it how reductions in cost could be made. The key thing for ORR was in engineering a move away from excessive bureaucracy. This is why it had not been possible to produce an impact assessment and why we were seeking information from TOCs in the consultation document.

Maggie Simpson noted that some costs incurred by operators were commercial costs, which Schedule 5 protected. It was important to identify which contractual mechanisms existed for commercial protection and which existed for other reasons. She noted that ORR's role was to ensure the fair allocation of access and facilitate a public interest outcome in line with its statutory duties, but that it needed to ensure that any stepping back on the part of ORR was balanced against this.

She also said that it was important to address those areas where capacity was constrained, and for ORR to consider what it could do to help. She noted other longer-term problems which should be fixed, in addition to any further issues raised as part of this consultation.

David Robertson thanked Maggie Simpson for her comments. He explained to attendees that a note of the meeting was being taken to capture these points and added that ORR would take legal advice on its statutory duties before it committed to any stepping back.

Mike Price suggested that the word 'timetable' should be substituted for 'capacity', as the ultimate goal was to produce a functional and effective working timetable. He added that journey times were critical to operator's needs. He said that he was confused by ORR's assertion that rights were 'hardwired' as he was not aware of any situations where this was the case.

David Robertson clarified that the consultation document had said that there were some cases where rights were so tightly specified that they were close to being hardwired. He pointed to the contracts on the West Coast as examples of highly specified rights.

Nigel Oatway said that he echoed the comments heard so far. He felt that the consultation document covered all the relevant issues, but he cautioned against any belief that something must be changed if it was in the document – it was possible that all of the issues raised did not need

addressing. Whilst he acknowledged that the regime was not perfect, he said that there was also a lot right with it, and that companies had come to rely on the protections afforded by their access rights and the contractual structure. He stressed the importance of all parties working together if reform was to be realised.

Brian Kogan expressed surprise at the apparent satisfaction with matters the way they were, given that the Value for Money study (informed by TOCs and FOCs) had highlighted a number of problems which organisations wanted changed due to the bureaucracy and delay they created. Whilst ORR had been working quietly to move things on in an evolutionary manner, such as the introduction of more general approvals, this methodology did not change contractual matters. It was important to work out exactly what needed to be done, and for the industry to tell us this.

John Beer observed that having presided over a large increase in passenger numbers since privatisation, the franchised TOC community certainly had an appetite for change. The fact was that some of the proposals might make it harder to deliver value for money for the passenger and tax payer. Whilst the general feedback highlighted the need for change, the detailed consultation responses would highlight where this would be helpful and where it would not.

Francis Tyrrell said that it was important to consider the impact of this work on third parties, particularly in specific areas which affected these parties such as asset protection agreements, network changes and station changes.

David Robertson acknowledged that Part G was a significant issue, and that asset protection agreements were already under consideration. Brian Kogan added that ORR would shortly be issuing a document on station change and the involvement of third party investment. The intention was to make it easier for third parties to invest at stations.

Kai Hills said that he recalled during an informal meeting that he had said that Part G did not require reform, and asked for more information on what reform it was believed was required. He added that reforming the network code did not change behaviours.

David Robertson said that there were criticisms over the way in which both TOCs and Network Rail followed the Part G process which should be considered. Brian Kogan added that if there was a general view that no change was necessary then this was fine; but it would need to be communicated. But if there were things taking place that, for example, discouraged third party investment, this was a cause for concern. Getting to the bottom of these issues was the reason for the debate.

David Prescott explained that, as a funder, he was concerned over specific outcomes, and about how waste could be reduced. He asked whether the industry would see a very specific approach to the public interest element.

David Robertson said that ORR has a specific duty under section 4 on having regard to funders and the facilitation of a public interest outcome. ORR met frequently with funders to discuss their concerns.

Brian Kogan asked whether there was anything missing from the consultation which attendees might have expected to see. Paul Richardson said that there was no mention of track access options, and the way in which these were handled.

Jonathan Cooper asked how ORR would be satisfied that it was not stepping back too far – which was a particular concern for open access operators. Brian Kogan replied that this is what ORR wanted to hear views on. ORR would need to consider any stepping back against its statutory duties. He stressed the need for the industry to provide ORR with views on what was clearly a tricky balance.

Schedule 5 – the specification of access rights and the level of prescription

Brian Kogan explained that this section would look at the specification of rights and the level of prescription. He made the point that ORR did not compile the timetable and, indeed, was not allowed to do so for periods exceeding one year. The key to the issue was getting the balance between the TOCs and Network Rail right. He added that he was aware of the concerns and problems caused by the 23 September letter, hence ORR's desire to reach conclusions on the matter as soon as possible.

Mike Price noted that the ultimate outcome was a working timetable, which should be the focus of discussion. He added that there was a difficulty in resolving the conflict between different types of traffic on what was not a homogenous railway. He cautioned against arriving at a situation where it became incumbent on a TOC to prove that Network Rail had not compiled an optimum timetable; which may result in the inefficiency of each TOC producing a timetable.

Ian Kapur was of the view that GBRf's rights were described with a good balance which gave his organisation certainty and Network Rail sufficient flexibility. Any dilution of these rights may render the business untenable.

Graham Cross added that Schedule 5 gave good protections on revenue and efficiency, as well as journey time protection.

Kai Hills said that operators did not require hardwired rights; merely the rights required to deliver the franchise specification. Operators were not seeking hardwiring. These rights were currently expressed well in Schedule 5, but not so well in the Service Level Commitment.

Jonathan Chatfield said that Schedule 5 did not exist in isolation, but it should be used to give the protection each party required, rather than being a mere administrative task.

Brian Kogan said that ORR's perception was that, in many cases, timetable changes were made, and then operators came to ORR with the necessary changes to be made to their contracts. He was not clear on the value added by ORR simply approving these changes to reflect the changes already made to the timetable, especially given the time and money that the process costs. This is what had driven ORR's view on the level of prescription and the proposed move to a less prescriptive specification.

Geoff Appleby said that the move to looser franchise specifications could mean that greater prescription of access rights may be required so that the franchisee could be certain of securing the

timetable that underpinned its franchise premium or subsidy payments. There was also a need to safeguard against potential timetable changes in the future to accommodate new services that could not be foreseen when a franchise was let, to ensure that the franchised services could continue to be delivered.

Brian Kogan said that more prescriptive rights made matters more difficult for potential new entrants and for Network Rail. Giving the example of the West Coast Main Line, as a crowded route, and operators having prescriptive access rights which, when all put together, left Network Rail with few solutions for increasing available space.

Andy Wylie said that for an open access operator, limited specification gave a greater degree of commercial freedom, but that for franchised operators, higher specification gave greater certainty. He noted the political angle of expectations over timetable delivery, and the lack of understanding amongst politicians over how the contractual system worked. He noted that blocking rights had been used to guarantee revenue and prevent ORCATS abstraction by other operators.

David Prescott agreed with Andy Wylie's assessment, noting that a recent ten minute timetable change had received ministerial attention. It was important for political reasons to have journey times enshrined in the track access contract.

Brian Kogan noted that contractualising something did not itself alter the capability of the network.

Mike Price said that the timetable was the primary driver of both cost and revenue. The key issue on cost is resource utilisation and for revenue, the key driver is the requirement to meet customer needs. Schedule 5 was already seen as a compromise because all rights have to be expressed in the same form to comply with the template, but if rights were specified differently, it would be impossible for Network Rail to manage the timetable. The common standard of expression of rights should be preserved.

Jonathan Cooper said that Schedule 5 functioned reasonably well, but that there were issues with how it was populated. Schedule 5 was also a key tool in underpinning investment. Network Rail needed to ensure that flexibility was protected and ORR needed to ensure that it did not approve contracts or amendments which contained flexing provisions which the operator could not use.

Brian Kogan replied that ORR predominantly relied on the consultation process and the industry in general to bring such instances to its attention.

Andy Cooper said that he agreed with Andy Wylie's view and proposed that operators should bid for slots on long distance routes in a similar fashion to the system for air travel. A more significant point was whether Schedule 5 would prove to be an appropriate way of organising capacity in the future.

Nigel Oatway said that he was happy with the current level of prescription in the freight Schedule 5 which provided flexibility for Network Rail and certainty for the operator's business. A decrease in the level of prescription may mean that freight operators would not be able to give their customers certainty over delivery times for commodities, with the result being a loss of business to other transport modes, particularly road.

Geoff Appleby queried the proposition that less prescription equalled more commercial flexibility, believing that such flexibility already existed. Schedule 5 was merely a backstop provision and did not constrain the timetable bids that train operators could make. Brian Kogan understood that Schedule 5 already did serve this purpose. Brian Kogan reiterated his view that asking ORR to approve changes twice a year did not always add value.

Andy Cooper replied that it gave operators piece of mind. Brian Kogan said that this came back to reducing the level of risk, and that he was conscious that Network Rail and TOCs had been unable to agree contracts that were as prescriptive as the TOC would like. He questioned the benefit of contractual protection if such protection already existed in the network code.

Mike Price said that when changes occur, protection was required. Components such as journey time were fundamental to an operator's cost structure. Graham Cross added that Schedule 5 also protected investment in the network.

Andy Wylie said that the level of protection depended on the services and the funder's requirements. Hull Trains did not have journey time protection, as it would come to ORR if it felt it was being treated unreasonably. He could understand why suburban operators would not want their journey times or timetables amended significantly.

Peter Swatridge said that he understood an operator's desire for protection, but with limited capacity, it was not always possible to meet every request, which led to a natural tension. If the level of specification was increased, it would become progressively more difficult to timetable in new services in the longer term.

Geoff Appleby said that there was a clear need to find a way of approving rights to give operators a reasonable degree of certainty, but that it was not always possible to get Network Rail to agree to proposals without carrying out a full timetabling exercise.

Maggie Simpson noted the difficulty being experienced in pushing for strategic capacity to be defined. She added that franchised bidders had a degree of primacy given they were backed up by the weight of funders. It would be difficult for any stepping back to occur without a view on the long term use of a route.

David Prescott agreed that strategic planning was critical, noting that current rights did not always compliment more strategic aims.

Brian Kogan asked whether there were specific items in Schedule 5 which could be changed.

Jonathan Cooper replied that the key thing was flex. There was a need to retain and find more flex in intervals and journey times.

John Beer said that rights could not be too prescriptive in order to preserve the boundaries between commitments to the taxpayer and to the Department for Transport. He felt that Network Rail did not have access to the necessary information in terms of its application of the Decision Criteria.

Paul Hebditch said that there was a risk of creating impossible puzzles, but that the way in which rights were specified should be a solvable puzzle. The mechanisms for resolving disputes were not quite right. Matters were often resolved too close to the day of delivery. Brian Kogan asked whether

a more highly prescribed Schedule 5 would make Network Rail's job easier. Paul Hebditch said that it potentially would, but that this could create conflicts. Peter Swatridge said that there was a balance to strike between being easy and being innovative.

John Beer pointed out that Peter Swatridge was making an implicit assumption that the services specified a current Schedule 5 were automatically inferior to new ideas for the use of a given section of route, which was not always the case.

Brian Kogan noted that when the model contracts were produced, a key aim was that of standardisation, including for Schedule 5, where it was envisaged that operators could look across all Schedule 5s and understand what had been sold. There was apparently a view that this was about right, but that it was becoming increasingly difficult to find space.

Mike Price asked whether it was possible to produce a 'better' timetable, and questioned what that would look like. Brian Kogan said that this depended on the definition of a 'better' timetable, and reminded attendees of the 'holistic timetabling' session held regarding the East Coast Main Line. It was concluded that different timetables would do different things, and an effective timetable ultimately depended on what was required from it. He added that the RUS process should inform this debate, but that RUSs started from a standpoint of filling the gaps in the status quo, rather than starting from scratch.

Mike Price said that we should discuss the best use of the network we have, as the current situation was something of a free-for-all. Brian Kogan said that capacity was not about 'who has what', but also how this is translated into a timetable.

Ian Cleland said that, in terms of efficient timetabling, one problem was that any operator could propose a timetable change, but that Network Rail could not force an operator to change its access rights. There was therefore nothing Network Rail could do to change something that constituted a conflict of interest.

John Beer questioned how Network Rail would know an outcome was better for the 'public good' than funders or operators. Ian Cleland replied that this was open for debate, adding that professional timetablers may be able to find an optimal solution. John Beer replied that the role of timetabling professionals should be to refine optimal delivery of outputs rather than to specify them.

Andy Cooper said that the timetable essentially constituted a 'rough cut', and that price was also important. The timetable generally did not alter significantly over time as it represented what customers wanted. Prices were used as a measure for fine tuning and efficiency. The world had moved on where the timetable hadn't.

Brian Kogan's understanding was that Schedule 5 could not be viewed in isolation and was clearly connected with fares and revenue.

Chris McRae said that it was important that freight operators could guarantee departure and arrival times in terms of generating new business. Where possible, rail needs to meet the certainty that haulage by road gives to customers.

Schedule 5 – the format and content of Schedule 5

Brian Kogan advised that the afternoon's group sessions were aimed at widening the number of topics which could be covered and to make it easier for more people to have their say. David Robertson explained that this session should be used to explore the content and structure of Schedule 5 'as is' and consider what could be changed to make it simpler and easier to use. Facilitators would be taking notes.

Group 1 suggested that the merger of Schedules 2 and 5 would be a good idea, but with less text and no mention of ancillary movements and route and gauge clearance. It was felt that the current definitions were fine, and that footnotes whilst needed, could and should be minimised. It was suggested that clarity would be aided and misquoting less likely if remaining footnotes were identified by letter rather than number. Turnaround times could be enshrined in the timetable planning rules. Earliest and latest trains should remain in Schedule 5, and not move to the engineering access statement. The platforming table could be replaced by text. There was some value in inserting a commercial purpose clause, although something similar was already in the priority date notification statement. It was felt that the data could be consolidated in data by service group, rather than in its current format.

Group 2 reported that there was little appetite for change. It was felt that all tables had a valid purpose, even if not all operators used all of them. The criteria and procedures document should be used to draw out the purpose of the different tables so that they could be used more effectively. There was no consensus reached on whether turnaround times and earliest and latest trains could go into the timetable planning rules rather than in Schedule 5. However, it was noted that any changes made may require an update to the timetable planning rules.

Group 3 said that Schedule 2 should be retained, but should not be combined with Schedule 5. The routes in Schedule 2 could be amplified by use of the Network Rail reference coding used for individual route sections in the EAS, or second (and lesser) preference the Engineers Line Reference. There was a view that there was little added value in defining the routes contractually within Schedule 5. There was a case for simplifying how the data in Schedule 5 was expressed, possibly combining all Schedule 5s into a single database, perhaps maintained by Network Rail. Journey time protection could be reviewed given that the explanation of Key Journey Times appeared to be complicated and difficult to explain to non-track access specialists. There was a general view that paragraph 8 rights should remain the exception, with the onus on the operator to justify a specific need. However Stabling rights should be easier to acquire, despite ORR's view that Schedule 5 gave sufficient protection. The freight representatives in the group suggested that specified equipment could be removed from passenger operator contracts to match freight operator contracts, but this found little support from the passenger reps on the group.

Group 4 reported that it was also felt that not much needed to change, but that there may be some scope for simplification. For example, table 2.2 could be removed and replaced with a 'spot right' clause. There was also scope for merging some tables, such as combining table 2.1 with 3.1 or 5.1. There were questions over the value of Additional Passenger Train Slots and whether it actually gave the operator any advantage in the timetabling process over an operator which did not have any rights. If not, APTS could be replaced by some generic wording giving passenger operators the right

to apply for a timetable variation in the same way as freight operators. Journey times could also be simplified, provided the protection they offered remained. Andy Cooper added his view that there was scope to remove journey times, as it was the nature of protection that had become more important. Raj Kalirai suggested that platform rights should remain to protect investments (for example, first class lounges) or cross platform interchanges. It was also felt that it should be possible to strengthen the engineering access statement so that earliest and latest passenger train slot provisions were not required. This would mean that Network Rail would have to have due regard for operators' requirements where supported by franchise commitments when developing the timetable.

Breakout sessions – “SPOTS”, scope of a General Approval, the network code, how ORR works

Group 1 reported that there was not seen to be a need for SPOTS, and that the proposal was based on one 'bad case' which did not justify the adoption of SPOTS. An adoption of SPOTS could be abused as it would give 'deemed access rights' and would probably lead to more timetable disputes. It would also push commercial risks, discussion and decisions into the timetable process. Were SPOTS to be adopted, the Part D Decision Criteria would not be for purpose able to handle the commercial issues raised by contentious cases. Additionally, the withdrawal of a service after SPOTS approval had run out would be damaging for the general public. It was felt that the current General Approvals covered the SPOTS proposal in a more acceptable way. Part of the current problem (it was acknowledged that there was a problem with formal timetabling of proposed service changes taking place in advance of the awarding of track access rights, but that SPOTS was not the correct solution) could be assisted by ORR adopting a quicker access approval process with set timescales. It was felt that the timetable and access rights processes should run in parallel.

Group 2 reported that the group was generally supportive of a broader General Approval but there was concern that an open access operator could have access granted without the abstraction tests undertaken. It was also felt that the burden for correct submissions would be greater on smaller operators with fewer staff. There would be little in the way of savings for TOCs – the saving would instead be with ORR and its requirement for access staff. A question was raised over how much more scope could be added to the General Approval without effectively turning it into an exemption, and still ensuring that ORR's statutory duties applied. There was also a warning of a culture of 'vexatious objections' within the industry to ensure that ORR would become involved and provide more scrutiny and assurance.

Group 3 said that Part G did not need a rewrite, but that it should be reviewed in terms of how it is applied as there is inconsistency across Network Rail Routes. Part G may also benefit from the publication of a code of practice. The concept of 'No material effect' whilst intended to be helpful is not supported by the contractual process and can lead to problems (including additional work and extended timescales) particularly when the existence of 'a material effect' is asserted. The Group considered that all changes should be treated as a G1 network change, with Network Rail stating in the consultation that it felt there was no material effect. There was a view that funders should also have the right to object to G1 changes. Part F should also be reviewed and 'plain Englished', removing duplication of work across TSI/ROGs and Part F as necessary. Part L should be retained as

FOCs still want to use the LOC mechanism. There was a view that JNAPs should not be contractualised. The Part C process was seen to work, despite some timing issues.

Group 4 reported that it was felt that ORR was becoming better at undertaking informal discussions and talking through issues, although ORR did not always appreciate that organisations occasionally wanted informal help without any legal connotations. ORR could also make a presumption that the Network Rail/TOC relationship was troublesome when this was not always the case. ORR should also do better at displaying a sense of urgency into matters which were brought to its attention (supplemental agreements and contracts, for example). It was felt that the timescales for applications were too long, and that sometimes non-contentious applications went to the bottom of the pile because of their routine nature, when they should or could be processed more quickly. There was a view that ORR often forgot that it, like Network Rail, was funded by 'direct debit' in a way that operators were not, and that ORR should be more mindful of this. The fact that ORR had asked the question of what it could do better was welcomed, with a view that ORR would not have asked such a question previously, and that it was becoming more responsive to the feedback it received. It was felt that ORR should follow up on issues where it dispenses formal advice to ensure that it is aware of any ongoing issues and to receive feedback. ORR should be more up-front about what policies and projects it will review, and when it will do so. ORR should take more care to space its consultations more efficiently and give the industry more notice of forthcoming consultations. It should also ensure that consultations go to the practitioners of an organisation, as well as MD level. This applied to all areas of ORR. ORR should also be better at 'closing down' issues raised through longer projects – such as periodic reviews. ORR should also be careful to keep its level of knowledge given the changing faces – particularly at Board level. ORR should consider whether it is brave enough to investigate Network Rail at a more grass roots level, given that its current monitoring takes place at quite a high level.

Conclusions / next steps

Brian Kogan outlined the next steps, including the differing consultation deadlines. ORR might contact organisations in light of comments received today. Equally, organisations were welcome to get in touch with us to discuss any requirements. He reminded attendees that volunteers to take responsibility for areas of the action plan would be welcomed. He confirmed that a copy of the slides would be sent electronically to attendees. He closed by noting that ORR would continue to discuss industry reform with Network Rail, funders and the Rail Delivery Group.