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22<sup>nd</sup> July 2011

Dear Ian,

**Virgin West Coast Trains Ltd response to ORR's Consultation on  
"The Review of *Decision Criteria* in Part "D" of the Network Code"**

With reference to your consultation papers received on 11<sup>th</sup> June 2011, Virgin West Coast Trains Ltd [WCTL] hereby responds with the following comments.

**1. Introduction**

- 1.1 WCTL welcomes the opportunity to provide its comments and concerns relative to this latest consultation, the second workstream resultant from the rewrite of the Network Code Part "D" last year, following the Industry's review of the overall Access Planning process.
- 1.2 We agree with the ORR that correct use of *Decision Criteria* within timetable development, allows for the important function of maintaining, both in purpose and structure, a robust timetable process, as well as underpinning the ability to continually improve upon, both timetable capacity and capability.
- 1.3 WCTL has been involved in a number of recent ADRC disputes where, as the ORR has acutely pointed out, the primary basis of the arguments and determinations have centred upon Network Rail's application of *Decision Criteria*. Often, as highlighted, criterion {a} is given a higher weighting than others. Timetable Participants tend to use this criterion to support their casework more than any other criterion.
- 1.4 The key problem with *Decision Criteria* is the fact that despite Network Rail applying the criteria in light of the circumstances to which it finds itself in, and therefore giving more importance to some criterion over others, the economic and commercial interests of Timetable Participant's often clash with such decisions.
- 1.5 Furthermore, as stated in the determination of TTP376, (Para 8.5.3 refers), many of the *Decision Criteria* are in direct conflict with each other, as they cannot all be satisfied at the same time. They also conflict internally as well as externally, such that they are often applied differently to different parties in differing situations. Any new proposals must take such conflict(s) into account.
- 1.5 Therefore it is vital, that whatever measures are put in place to accommodate such concerns, that it strikes an improved balance between the requirements of Network Rail (in facilitating a timetable capable of meeting the needs of Timetable Participant's), as well other Industry parties. We therefore tentatively welcome the ORR's draft proposals in splitting criterion between Objectivity and Consideration.

## **2. Expectations & Review**

- 2.1 WCTL has been wholly engaged throughout this Access Planning review, simply because of those expectations confidently anticipated to be delivered at the end of it.
- 2.2 Such outputs, (which are intrinsically linked to providing a more efficient and effective train planning process, thereby providing a capacity driven timetable that has the flexibility to evolve, based on economic, innovative and demographic developments), appear to ultimately only be deliverable, if the Decision Criterion which underpins them, is fit for purpose; primarily:
- i) Network Rail understanding what capacity is required and available across the Network, thus establishing processes to respond to such TOC aspirations in a more coherent, efficient, reliable and timely way; alongside;
  - ii) Network Rail establishing and improving its train-planning processes such that there will be greater certainty over TOC train service applications, whether it be timetable continuity or aspiration.
- 2.3 At a higher level, WCTL agreed that an overhaul of Part D was required, simply because, as the Industry Working Group originally concluded, it can be both complex and unwieldy, especially when regular use necessitates its employment alongside “The Rules” documentation. Emphatically, we accepted that the Decision Criteria used by Network Rail, to construct timetables, was often misinterpreted and / or misused, primarily resulting in the disputes and challenges previously highlighted.
- 2.4 We considered that, in light of the need for greater timetable efficiency both in terms of planning and capacity optimisation, combined with those emerging principles being introduced and contained through the Seven Day Railway (7DR), Joint Network Availability Plan (JNAP) and Route Categorisation initiatives, that it was also imperative that the current Decision Criteria was overhauled to encompass such requirements.
- 2.5 We concurred with the initial objective of incorporating case-law and appeal decisions into any overhaul of Decision Criteria, as this would enable (as previously indicated), all parties to use the most currently applied and recently established set of principles.
- 2.6 We also specifically considered the prudence of having two tiers of Decision Criteria one for the franchising process followed by another for the train planning process (split between varying route categories). In considering those applicable changes to Decision Criteria for future train planning purposes, we deemed the need to look at achieving criterion that would otherwise be concise, easily applied and non-subjective.
- 2.7 WCTL did not advocate the need for any review of Decision Criteria on a ranking or weighted basis, unlike some other consultees, other than that some ‘routes’ might be worthy of a higher ranking over others (i.e. those based on the Top 20 Route Categorisation principles). We also acknowledge there will need to be greater clarity from Network Rail relating to the underpinning of their application of the aforementioned Considerations over others, as discussed at the workshop. Indeed, the way in which Network Rail’s methodology in arriving at such Decisions, possibly needs more debate and feasibly a separate workstream.
- 2.8 From the latest proposals hereby consulted, there is a conscious decision to move away from a specific ranking / weighting application, (which quite rightly could, by virtue of having to prioritise, irrespective of situation, lead to perverse application and decision by Network Rail), towards a more objective and considerate approach. Whilst we agree with this at a higher level, we do still feel there is more that can be taken into account. We take the following opportunity to explore further, criterion by criterion, such new proposals.

### 3. ORR's Proposals - The "Objective" (D4.6.1)

- 3.1. As indicated earlier, WCTL can see the ORR's rationale behind the splitting out of what can duly be considered, currently, as the key criterion part {a}. The problem until now with this criterion, is that because it encompasses so much of what the Industry aspires to, many Timetable Participant's including ourselves, often use this as the overarching instrument with which to support their position during disagreements and / or disputes.
- 3.2. However, (and this applies equally to some of the newly proposed *Considerations* as discussed in detail below), we do not believe necessarily, that the *Objective's* wording is prescriptive enough to:
- i) reflect the fact that *weighting* no longer features as part of any possible *Decision Criteria* modification, despite the earlier opinion that it was likely to be a viable way forward due to the need to encompass criterion to reflect the ORR's statutory duties;
  - ii) prevent ongoing possible confusion and / or conflict over its implication on both Stakeholder and Network Rail.
- 3.3. By this we mean the *Objective* must not just fulfil the intent of Network Rail '*.....to share capacity on the Network....*' but also those who use it. The whole Industry is now aligning to the need for greater cooperation and alliance in achieving, amongst other things, improved timetable development, capacity and robustness. This is borne out by the outputs from the McNulty review, the start of Devolution within Network Rail and an increasing aptitude for Stakeholder integration with infrastructure & project management.
- 3.4. After constructive thought, particular following the workshop, we believe that integrating the 'capability' of the Network to also be a vital component of the '*Objective*'. Both 'capacity' and the 'capability' of a timetable go hand in hand; without one the other is unsustainable and unmanageable. This will have the benefit of placing an equal relevance on the 'Rules' which tend, based on their functionality, to be the catalyst of so many timetabling decisions. This obviously then affects your *Consideration* proposal part {b}; the reasoning of which, is outlined in greater detail under Para 4.2 below.
- 3.5. WCTL therefore considers that whilst the concept of having an '*Objective*' is sound, the wording needs to be *tightened up* to reflect both the ever evolving and improving partnerships within the Industry, alongside the capabilities of the Network. The advantage of incorporating such wording (as re-proposed here-in), is that it will tend to place greater emphasis and responsibility on Network Rail to work yet closer with Stakeholders in producing robust and efficient timetables. This will not only provide continuity, but also an ideal opportunity to accommodate emerging timetable growth.
- 3.6. We also believe that the proposal can be further amended to reflect just the 'Users' of the 'Railway' rather than others (i.e. funders etc. - as discussed at the workshop) due to the fact that the Criterion are only relevant to any given timetable period, and as such, it is more discreet at this stage than a nationwide involvement and decision on a more strategic scale. This re-iterates IWG's *suitability* assessment of Decision Criteria, where they need to be simpler, enable parties to understand their obligations, as well including all those factors that Network Rail should by default, be taking into account, as well as better aligning with industry processes.
- 3.8. We therefore propose the following changes to the wording:

**4.6.1 Where Network Rail is required to decide any matter in this Part "D" its objective shall be to share and make provision for, both the capacity and capability of the Network, in the most efficient and economical manner, in association with, and in the overall interest of, all Users, providers, potential providers and funders of railway services ("The Objective").**

#### 4. The “*Considerations*” (D4.6.2)

##### 4.1 safety {new part ‘a’}

- 4.1.1 Whilst WCTL accept the ORR’s proposal to separate out this element from the original criterion {a}, we do not see why the element ‘*effect on the environment*’ {i.e. the newly proposed part {i}}, cannot also be combined within this criterion. Safety and the environment do tend to be relative to one another, (most train participants combine these two aspects departmentally), and we do not see any benefit in splitting these two elements out.
- 4.1.2 Furthermore, in the context of the newly proposed D4.6.3, the combination of these two factors, takes away any conflict that might arise in the event that circumstance conspires to require a decision between *safety* and any *effect on the environment*. Furthermore, we do not see any reason to incorporate these two elements into the Objective; simply as because, they are so vital, they naturally & sensibly provide a subjective measure against the other Considerations.
- 4.1.3 We therefore propose the following changes to the wording:

**4.6.2 (a) *safety and the effect on the environment*;**

##### 4.2 *maintaining and renewing the capability of the Network and securing its development, improvement and enlargement* {new part ‘b’}

- 4.2.1 As we have outlined above (Para 3.4 refers), the capability of the Network actually goes hand in hand with the capacity available across the Network. One affects the other, and importantly capability, whether it be restrictions on access (Restrictions of Use – ‘ROU’), ‘point to point’ timings, gradients, headways and so on, all fundamentally affect the capacity available within any given timetable, on any given route.
- 4.2.2. Whilst it is essential for Network Rail (and perhaps in the future in partnership with selected Stakeholders), to maintain, renew, improve, develop and expand the Network, the actual capability of the Network is driven by what is available at any given point in time. Therefore this *Consideration*, whilst being crucial, needs to be reassessed in the context that capability as an *Objective* relates to what capability is required at the time the circumstance arises, where as this part {b} relates to how that is going to be achieved i.e. through improvement, maintenance & repair and development etc.
- 4.2.3 Therefore to achieve the {new} *Objective*, the Network needs to be managed appropriately and there are various initiatives and directives in place or being progressed to allow this to occur. Such initiatives are essential to ensuring its development and improvement, thus benefitting the Timetable Participant’s who use it. Initiatives like the Joint Network Availability Plans (JNAP), Seven Day Railway principles (7DR), Route Categorisation, as well as standard Infrastructure Maintenance & Renewal and Enhancement measures (e.g. new Yellow plant) managed through Strategic and Network Planning; all add credence to providing a ‘*fit for purpose*’ Network.
- 4.2.4 Following on from those outputs at the workshop, we lean towards accepting the notion that the term ‘*renewing*’ is not needed, if the term *maintaining* is defined in the context of maintaining the capability of the Network, rather than actually undertaking maintenance work. On this basis we agree with the ORR that it is sensible to take most of the wording out from the original criterion {a}; the wording needs to therefore reflect the following:

**4.6.2 (b) *maintaining ~~and renewing~~ the ~~capability of the~~ Network and securing its development, enhancement and enlargement through strategic initiatives and expert management*.**

4.3 **seeking consistency with any current RUS strategy.... {old part 'b'}**

- 4.3.1 Whilst WCTL accept the ORR's reasoning to withdraw this criterion, it's views are nevertheless, particularly in terms of access rights, pertinent to those issues discussed under Para 4.4. below.

4.4 **enabling a Timetable Participant to comply with any contract to which it is party..... {old part 'c'}**

- 4.4.1 On reflection, following the workshop, despite the ORR proposing not to retain this criterion on the basis that contracts with Third Parties should not necessarily give one timetable participant priority over another who does not have or who has a lesser specified contract, we do nonetheless consider that this is an important consideration to have. Whilst the ORR declares that any contractual obligations would have already undergone scrutiny & consultation during the regulatory approval process, and thus be already acceptable to the Industry; this is not necessarily always the case.
- 4.4.2 Whilst we accept that this would be ideal in an Industry that was not so fragmented and complex both contractually and procedurally, there is a need to have some form of contractual protection due to the prospective nature of the timetable process.
- 4.4.3 WCTL has recently experienced a couple of distinct events where it has had to go to dispute (TTP 324 / 352) over the non-compliance of Network Rail train planning teams to offer timetabled paths in accordance with its Schedule 5. Ironically, turning to those reasons highlighted in Para 4.4.1 above, it was Network Rail who actually verified, on the basis that they '*were made aware of and informed of*' during our last Section 18 track access consultation process, that they could offer such paths submitted to the ORR for approval. In reality in these circumstances, they could not, and consequently we took them to dispute, with this criterion being supportive to the integral elements of the dispute.
- 4.4.4 The fact that the ORR has decided that the onus of priority of contracts over others is the key element for this criterions' withdrawal, we nonetheless disagree that in circumstances where an item is specific between one Timetable Participant and Network Rail, and where the relevance is pertinent to what has been pre-approved by the ORR, then some form of Consideration must still remain.
- 4.4.5. By withdrawing such criterion, it places an undue risk on the Timetable Participant's if such similar circumstances were to occur again, despite any assurances that may be given to the ORR in the future. On this basis we believe that this criterion should still stand but in a revised form.
- 4.4.6 The issue about whether a TOC is a franchisee or not, needs to also remain as both Franchise Agreement and (Track) Access Agreement operate in parallel.
- 4.4.7 The wording therefore needs to be retained and reflective of the following; and is thus proposed as consideration {i}:

- 4.6.2 (i) enabling a timetable participant to comply with its Access Contract wherever possible to which it is party with Network Rail (including where a Timetable Participant is a franchisee or franchise operator, the franchise agreement to which it is party), in each case where Network Rail is integral to the approval of such contracts.**

4.5 **maintaining and improving the levels of service reliability.... {old part 'd'}**

4.5.1 WCTL accept the ORR's reasoning to amend this criterion, based on the ORR's view that '*reliability*' could be considered to refer more to cancellations than delays.

4.5.2 However, whilst we acknowledge the wording of this *new* Consideration, there is still a likelihood that cancellations alongside delays, will continue to result from ongoing timetable development, especially when one considers current growth numbers will continue to require more and more timetable capacity. When combined with Project and Rules development, this may still lead to disputes over the cancellation (as well as the delay), of current and future aspirations of applicable services.

4.5.3 Network Rail when considering their position for producing any timetable, must assess the strength of it in terms of durability and delivery; in other words its consistency to deliver a service on a lasting basis without delay and cancellation, (or until such times as it's otherwise changed). Therefore we believe that the wording should be expanded to include the term *consistency*.

4.5.4 The wording therefore needs to reflect the following:

**4.6.2 (d) *maintaining and improving levels of service reliability in a consistent manner*.**

4.6 **maintaining, renewing and carrying out other necessary work on or in relation to the Network {old part 'e'}**

4.6.1 WCTL agrees with the ORR regarding the withdrawal of this criterion, due to the main body of this now being encapsulated within the newly proposed part {b}.

4.7 **maintaining and improving connections between railway passenger services {old part 'f'}**

4.7.1 WCTL again agrees with the reasoning behind the ORR's quest to encapsulate one of its statutory duties' within this revised wording of old criterion {f}, in terms of ensuring there is an ongoing logistical need for integrated timetable sustainability and development, particularly with regard to overall 'end to end' journey times.

4.7.2 Indeed, overall Journey Times provide a very important characteristic, indistinguishable within current day Decision Criteria, as this relates discretely with those aspects covered in Para 4.4 & 4.5 above, both in terms of access Contract deliverability and consistency. This also links into the strategic emphasis we have proposed under Para 4.2 above (new Consideration part 'b').

4.7.3 Integrated timetables are a key aspect for Timetable Participant's in establishing, maintaining and growing their businesses, especially in rural areas or where services are irregular. Such re-wording also provides more protection for Timetable Participant's, especially where 'first & last' services might be otherwise vulnerable to erosion due to changing "The Rules" requirements. Obviously, the same concept applies to Freight Operators in terms of logistical requirements.

4.7.4 The wording therefore remains acceptable:

**4.6.2 (f) *maintaining and improving an integrated system of transport for passengers and goods*.**



4.8 **avoiding material deterioration of the service patterns of operators of trains...(namely frequencies, service patterns, intervals)....{old part 'g'}**

- 4.8.1 WCTL agrees with part of the proposed reasoning behind the ORR's reduction to this criterion, however there is still the need (as detailed under Para 4.4 above) for some clarity and referral against Access Contract's, particularly in the context of journey times. However we do accept the view that any deterioration in journey times and service patterns would be contrary to achieving the 'Objective'; so if acceptable, this Consideration would align with our proposed new Consideration part {i}.
- 4.8.2 Journey times are essential to sustaining and improving the business of Train Operators which is why there is so much onus placed on Schedule 5. Whilst the *Objective* places an overall economic perspective on the Industry in general, it is nonetheless important to ensure that journey times are retained with a degree of specificity when Network Rail consider their position on matters where such conflict occurs.
- 4.8.3 We also acknowledge that there needs to be slightly more emphasis placed on just what journey times actually relate to. The uncertainty is around whether they relate to overall 'end to end' journeys of train services or something else i.e. inclusive of Underground or Bus transfer times and so on. We therefore agree with one of the outputs from the workshop, that the term '*train*' be inserted to give clarity and to cover freight operations, where onward logistics could be considered as part of the overall journey.
- 4.8.4 The wording therefore needs to reflect the following:

**4.6.2 (e) that train journey times are maintained wherever possible, with specific consideration given to Access Contract entitlement.**

4.9 **ensuring that, where the demand of passengers to travel between two points is evenly spread over a given period. {old part 'h'}**

- 4.9.1 WCTL has no negative comment to make regarding this Consideration. In fact, the rewording is eminently more sensible, as driving economical and cost base travel initiatives combined with changing business & leisure activities, means the spread of people is going to be constantly fluctuating and the Industry alters the train services / patterns to meet such changing demands. The original criterion placed too much of an emphasis on evenness, when in reality no such '*even*' demand really occurred.
- 4.9.2 Again, we agree with the ORR, in that such wording would now appear to meet the needs of Freight operators, with *demand* being applicable to 'goods' as well as passengers; it does not discriminate.
- 4.9.3 For clarity however we consider that the word "day" be replaced by the term '24 hours'
- 4.9.3 The wording remains acceptable, but tweaked to reflect the following:

**4.6.2 (c) that the spread of services throughout any 24 hour period reflects demand.**

4.10 **ensuring that, where practicable appropriate provision is made for reservation of capacity to meet the needs of timetable Participants whose businesses require short term flexibility....{old part 'i'}**

- 4.10.1 WCTL agrees with the ORR in withdrawing this criterion as a result of the recent encompassment (under PfC58) of Strategic Capacity provisions within Part "D" for short notice business requirements.

4.11 **enabling operators of trains to utilise their railway assets efficiently and avoiding having to increase the numbers of assets.....{old part 'j'}**

4.11.1 WCTL agrees with the ORR in withdrawing this criterion, now proposed effectively within the overall Objective. Furthermore our swaying towards more of an onus on contractual journey times (see 4.8 above), reinforces such view.

4.12 **facilitating new commercial opportunities, including promoting competition in final markets and ensuring reasonable access to the Network by new operators of trains.....{old part 'k'}**

4.12.1 Considering that the ORR is proposing a form of words combining both this and the old criterion ('p' – see Para 4.17 below), WCTL accepts the view that '*facilitating new commercial opportunities and promoting competition*' is effectively covered within the Objective. However commerciality is often a sensitive and business orientated issue for both Train Operators and associated Funders'.

4.12.2 We also accept the notion that resulted from discussion at the recent workshop where the proposed *bracketed* element, leftover from evidently Railtrack days, which, if left within the consideration, could lead to an imbalance in Network Rail's favour.

4.12.3 It is important to highlight that the commercial interests of Train Operators and/or funders are primarily down to two aspects:

- a) Being able to operate its daily business activities according to those Access Rights to which it is entitled; < '*day to day*' business interests >.
- b) Having the ability, both from a capacity & capability perspective, to establish new journey and travel opportunities, wherever feasible in partnership with Network Rail, through joint planning strategic initiatives. < *commercial opportunities* >.

4.12.4 Therefore, in combination with other proposed Considerations, we suggest the following re-wording:

**4.6.2 (g)     the business interests and commercial opportunities of Network Rail, ~~(apart from the terms of any maintenance contract entered into or proposed by Network Rail)~~ or any Timetable Participant or funder of which Network Rail is aware.**

4.13 **avoiding wherever practicable frequent timetable changes, in particular for railway passenger services {old part 'l'}**

4.13.1 Considering the ORR's reasoning for the withdrawal of this criterion, we ourselves concur, that in the eventuality of frequent timetable changes they would be counter productive when set against the new Objective. Frequent changes to any timetable both de-stabilises the robustness and performance of such services, and is counter productive to those considerations proposed.

4.14 **encouraging the efficient use of capacity by considering a Timetable Participant's previous level of utilisation of Train Slots {old part 'm'}**

4.14.1 Taking cognisance of the ORR's reasoning for withdrawing this criterion, the proposals we have put forward under the Objective and Para 4.4 above, further supports any issues over capacity and its efficient use; we therefore accept that this needs to be withdrawn.



4.15 **avoiding, unless absolutely necessary, changes to provisional International Paths following issue of the applicable timetable Planning Rules {old part 'n'}**

4.15.1 We accept the ORR's proposals and new consideration {h} - wording as follows

**4.6.2 (h) *that, as far as possible, International Paths included in the new Working Timetable at D-48 are not subsequently changed.***

4.16 **avoiding, changes to a Strategic Train Slot other than changes which are consistent with the intended purpose of the Strategic Path to which the Strategic Train Slot relates {old part 'o'}**

4.16.1 WCTL agrees with the ORR's reasoning in retaining this but in slightly revised format {new part 'j'}, but also taking cognisance of the recent encompassment (under PfC58) of new Strategic Capacity provisions.

4.16.2 The wording therefore remains acceptable:

**4.6.2 (j) *avoiding changes, as far as possible, to a Strategic Train Slot other than changes which are consistent with the intended purpose of the Strategic Path to which the Strategic Train Slot relates.***

4.17 **taking into account the commercial interests of Network Rail and existing and potential operators of trains in a manner compatible with the foregoing {old part 'p'}**

4.17.1 WCTL has already commented on this criterion's withdrawal due to its merger with old criteria {k} under Para 4.12 above.

**5. Consistency with Part 4.6.3**

5.1 In terms of the slightly modified *old* Part "D" Part 4.6.1, now renumbered 4.6.3, (thus reflecting the slight definition changes), WCTL has no specific comments to make. However, in view of our acknowledgement with the ORR that the Industry move away from ranking or/ weighting of Decision Criteria (Para 2.8 refers above), we would nonetheless like to suggest a word change at the end of this paragraph.

5.2 Network Rail in the event of having to apply two or more Considerations due to those particular circumstances involved, thereby producing the prospect of conflicting outcomes, are given a decision to apply, based on the importance of such circumstances, Considerations with appropriate weighting.

5.3 However we would suggest that the term '*weight*' be replaced with the term '*assurance*'. This takes away any dubiety or concern over the new Considerations having any association with 'ranking' or 'weighting' attributes. The wording would then be as follows:

**4.6.3 *When applying the Considerations, Network Rail must consider which of them is or are relevant to the particular circumstances and apply those it has identified as relevant, so as to reach a decision which is fair and is not unduly discriminatory as between any individual affected Timetable Participants or as between any individual affected Timetable Participants and Network Rail. Where, in light of the particular circumstances, network Rail considers that application of two or more of the relevant Considerations will lead to a conflicting result then it must decide which of them is or are the most important in the circumstances and when applying it or them, do so with appropriate ~~weight~~ assurance..***

## **6. Summary**

- 6.1 Throughout this consultation response we have highlighted the importance for the *new* Decision Criteria to be appropriate for both current and future Industry needs, particularly when it comes to timetable planning and access contract engagement.
- 6.2 We have also indicated our desire to have Decision Criteria that allows for consistency and the ability to cater for growth and commercial timetable development.
- 6.3 However, it is also essential that for those Network Rail strategic initiatives associated with capacity and capability management, that they are also catered for within these new Criteria. Network Rail have been working hard with Timetable Participants to secure access and growth opportunities in line with each others aspirations, and in our particular case with Anglo-Scottish services e.g. 7-Day railway access provisions.
- 6.4 In concluding this response, we would politely request that our compelling proposals, which we believe will bring consistency, simplicity and opportunity to what is otherwise currently a complex and unwieldy procedural mechanism, are considered with equal importance by the ORR.

Yours sincerely

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Commercial Operations Manager  
Virgin West Coast Trains Ltd.

## Appendix “A” – WCTL’s Proposed Decision Criteria (in response)

### 4.6 The Decision Criteria

- 4.6.1 *Where Network Rail is required to decide any matter in this Part “D” its objective shall be to share and make provision for, both capacity and capability of the Network, in the most efficient and economical manner, in association with, and in the overall interest of, all Users of railway services (“The Objective”).*
- 4.6.2 *In achieving the Objective, Network Rail shall apply any or all of the considerations in paragraph (a) – (j) below (“the Considerations”) in accordance with Condition 4.6.3 below:*
- (a) safety and the effect on the environment;*
  - (b) maintaining the Network and securing its development, enhancement and enlargement through strategic initiatives and expert management;*
  - (c) that the spread of services throughout any 24 hour period reflects demand;*
  - (d) maintaining and improving levels of service reliability in a consistent manner;*
  - (e) that train journey times are maintained wherever possible, with specific consideration given to Access Contract entitlement;*
  - (f) maintaining and improving an integrated system of transport for passengers and goods;*
  - (g) the business interests and commercial opportunities of Network Rail, or any Timetable Participant or funder of which Network Rail is aware;*
  - (h) that, as far as possible, International Paths included in the new Working Timetable at D-48 are not subsequently changed;*
  - (i) enabling a timetable participant to comply with its Access Contract wherever possible to which it is party with Network Rail (including, where a Timetable Participant is a franchisee or franchise operator, the franchise agreement to which it is party), in each case where Network Rail is integral to the approval of such contracts;*
  - (j) avoiding changes, as far as possible, to a Strategic Train Slot other than changes which are consistent with the intended purpose of the Strategic Path to which the Strategic Train Slot relates.*
- 4.6.3 *When applying the Considerations, Network Rail must consider which of them is or are relevant to the particular circumstances and apply those it has identified as relevant, so as to reach a decision which is fair and is not unduly discriminatory as between any individual affected Timetable Participants or as between any individual affected Timetable Participants and Network Rail. Where, in light of the particular circumstances, network Rail considers that application of two or more of the relevant Considerations will lead to a conflicting result then it must decide which of them is or are the most important in the circumstances and when applying it or them, do so with appropriate assurance.*
- 4.6.4 *The Objective and the Considerations together form the Decision Criteria.*