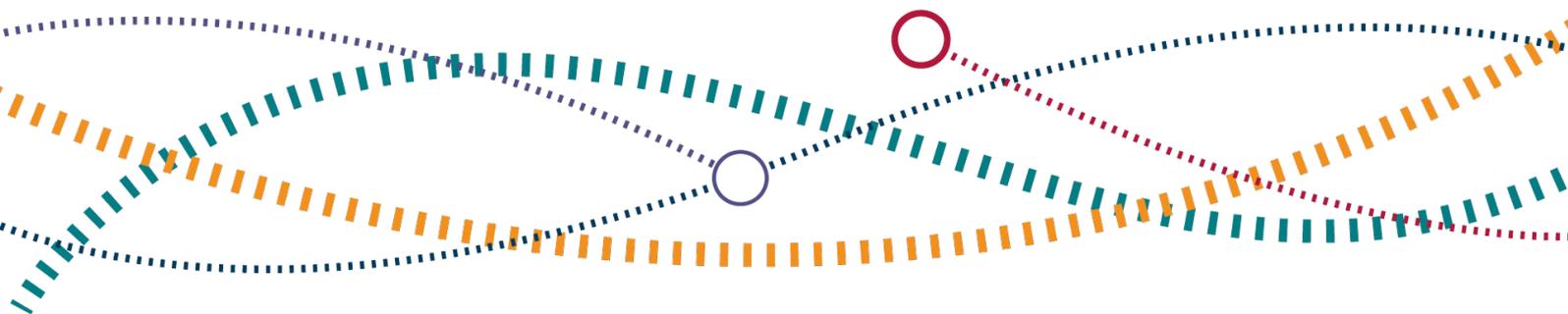




Initial consultation: proposals to modify Network Rail's network licence requirement on timetable publication

25 April 2023



Contents

Summary	3
1. Responding to this consultation	6
2. Introduction	8
3. The timeliness condition for timetable publication in Network Rail’s network licence	11
4. Proposed modification to Condition 7 text: reference to twelve weeks	15
5. Proposed modification of definition: “Relevant Timetable Changes”	17
6. Public Sector Equality Duty	19
Annex A: Better Timetables for Passengers and Freight (BTPF)	20

Summary

1. Since the start of the coronavirus pandemic, industry and funders have had to make major changes to train services more frequently and to shorter timescales in response to unpredictable passenger demand and financial pressure. Train timetables have been produced through informal processes agreed between Network Rail and train operators, rather than following processes legally required by regulated access contracts (including the Network Code). A consequence of these changes is that Network Rail has not been able to fulfil its network licence requirement to publish a final timetable no later than twelve weeks in advance of trains running (known as T-12).
2. Network Rail's timetabling reform programme, Better Timetables for Passengers and Freight (BTPF), would formalise different process timelines leading to the publication of train timetables. This process would introduce eight weeks (instead of twelve) as the deadline for Network Rail's publication of a timetable in advance of trains running. This would mean that train operators would only be able to inform passengers of confirmed train times at this eight-week milestone, thereby introducing a new 'Informed Traveller' deadline at T-8.
3. The Network Rail-led proposal was developed and agreed by most of the industry but is still subject to ORR approval. The BTPF programme claims it will deliver a more flexible, efficient, high quality and safer process. For industry, it is broadly in line with the timescales and processes which have operated since 2020. This proposed change is supported by Network Rail, the Department for Transport and passenger train operators. Freight operators have not supported it.
4. This public consultation is on proposed changes to Condition 7.18 of Network Rail's network licence. This condition requires Network Rail to provide train operators with timetable information twelve weeks in advance of trains running following a timetable change. Specifically, we are proposing to remove the explicit reference to the twelve weeks and replace it with the requirement for Network Rail to follow the timescales in the Network Code. This would automatically keep the timescales in the network licence aligned with those in the Network Code. We are also proposing a clarification of the technical definition of Relevant Timetable Changes in the licence.

Office of Rail and Road | Initial consultation: proposals to modify Network Rail's network licence requirement on timetable publication

5. If we make these licence modifications, we expect Network Rail (on behalf of industry) to request that the timescales in the Network Code are reduced from twelve to eight weeks. Upon receipt of such a request, we would consider all relevant evidence submitted to ORR.
6. This consultation asks whether the proposed licence amendments would achieve the objectives (a) to (c) below. Respondents are also asked for evidence of how finalising a timetable with fewer than twelve weeks' notice would impact planning journeys. The consultation aims are:
 - (a) future proofing the timetable information deadlines for industry by explicitly linking the network licence to the Network Code;
 - (b) improve the clarity of the Relevant Timetable Changes definition; and
 - (c) at a future point, enable ORR to consider the industry agreed proposal to amend the Network Code so timetables are finalised eight weeks prior to trains running ("T-8").
7. Currently, we are not proposing a change to the related provisions of train operator licences, which do not contain a specific deadline for timely publication of timetable changes.
8. In ORR's responses to the industry consultation on the BTPF Network Code proposal, we stressed the importance of providing evidence on the likely impact on passengers and freight customers. While Network Rail and train operators have already agreed this change, evidence on end user impact has not been comprehensive.
9. Our current understanding, which we want to test or confirm, is that a significant majority of passengers purchase tickets within the eight-week window before travel and that the industry has made notable progress in communicating with ticket holders about timetable alterations affecting their booked train. Before considering the licence modification or the industry-proposed Network Code change, we have decided to conduct this consultation to give consultees (including passenger representative groups) the opportunity to provide further evidence.
10. We are particularly keen to understand the potential impact on passengers of the proposal to change the final publication of the timetable from twelve weeks in

Office of Rail and Road | Initial consultation: proposals to modify Network Rail's network licence requirement on timetable publication

advance of train services operating to eight weeks in advance. This is because historically the publication of the timetable has been linked to the 'Informed Traveller' timeline (when train operators must inform passengers of services operating) and the point at which tickets are usually made available for sale to passengers.

11. The closing date for responses and evidence is 23 May 2023. If we consider the licence modification should proceed, in current or amended form, we expect to carry out a statutory consultation on the licence modifications in summer 2023, in accordance with section 12 of the Railways Act 1993.

1. Responding to this consultation

1.1 Responses are invited by **5pm on Tuesday 23 May 2023**, and should be sent by email to: **licensing.enquiries@orr.gov.uk**, by **online form**, or by post to: Licensing team, Office of Rail and Road, 25 Cabot Square, London, E14 4QZ.

We ask that, wherever possible, you respond via email or online form.

1.2 ORR has actively considered the needs of blind and partially sighted people in accessing this document in PDF format. The text is available in full on the ORR website and may be downloaded freely. Individuals and organisations can use free Adobe Reader accessibility features or screen readers to read the contents of this document.

1.3 If you need this document in a different format such as large print, easy read, audio recording or braille, please contact our Public Correspondence Team via:

- email: contact.pct@orr.gov.uk
- telephone: 020 7282 2000
- postal address: Office of Rail and Road, 25 Cabot Square, London, E14 4QZ.

1.4 We plan to publish all responses to this consultation on our website. Should you wish for any information in your response to be treated as confidential, please be aware that this may be subject to publication, or release to other parties or to disclosure, in accordance with the access to information regimes. These regimes are primarily the Freedom of Information Act 2000 (FOIA), the United Kingdom General Data Protection Regulation (UK GDPR), the Data Protection Act 2018 (DPA) and the Environmental Information Regulations 2004.

1.5 Under the FOIA, there is a statutory code of practice which deals, amongst other things, with obligations of confidence. In view of this, if you are seeking confidentiality for information you are providing, please explain why. If we receive a request for disclosure of the information, we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on ORR.

Office of Rail and Road | Initial consultation: proposals to modify Network Rail's network licence requirement on timetable publication

- 1.6 If you are seeking to make a response in confidence, we would also be grateful if you would annex any confidential information, or provide a non-confidential summary, so that we can publish the non-confidential aspects of your response.

2. Introduction

Purpose

- 2.1 This first purpose of this consultation is to seek views on our proposal to modify Network Rail's network licence. We are proposing two amendments:
- (a) to remove the explicit reference to twelve weeks for publication of the timetable in Condition 7.18 and replace it with a direct reference to the timescales in the Network Code. This would keep the timescales in the network licence aligned automatically with those in the Network Code; and
 - (b) to change definition of "Relevant Timetable Changes" in the licence to make it clear that it includes the main working timetables published throughout the year.
- 2.2 The second purpose of the consultation is to gather further evidence on how passengers and end users might be affected by a reduction in the notification period for timetable changes from twelve weeks.
- 2.3 Please note that ORR's decision on the licence modification will be taken separately from that of any decisions on the Network Code.

Background to the National Timetable, the Network Code and the network licence

- 2.4 Under its [network licence](#), Network Rail is responsible for the publication of a National Timetable. It is also required to establish and apply efficient and effective processes to provide appropriate, accurate and timely information on changes to the National Timetable. Under the existing network licence, timely is defined as twelve weeks in advance (T-12) of scheduled trains running and is aligned with the twelve-week contract milestone in the Network Code. Importantly, this milestone relates to when train operators are able to inform passengers of changes to train services, known as the 'Informed Traveller' requirement.
- 2.5 The [Network Code](#) is a common set of contractually binding rules and industry procedures that applies to all parties with access to the track owned and operated

Office of Rail and Road | Initial consultation: proposals to modify Network Rail's network licence requirement on timetable publication

by Network Rail. Part D of the Network Code defines the industry processes for timetable production. Any changes to the Network Code must first be passed by the industry's Class Representative Committee (CRC) and then require approval from ORR before they can be implemented.

- 2.6 The existing timetable production and publication process timescales in the Network Code and the associated licence condition have been in place for many years. Industry and Network Rail compliance has varied throughout this period. Similarly, the 'Informed Traveller' milestone has been in place for many years with varied compliance.
- 2.7 Since the start of the coronavirus pandemic, timetable production processes have operated by informal agreement between Network Rail and industry, rather than follow the prescribed processes in the Network Code. ORR has publicly communicated to Network Rail and industry that we expect it will either agree appropriate changes to the Network Code or return to the existing requirements ([Timetabling and Network Code change requirements](#)).
- 2.8 Network Rail, in conjunction with industry, has produced the Better Timetables for Passengers and Freight (BTPF) proposal to reform the timetable production process set out in the Network Code. This proposal passed at the CRC subject to legal compliance with the Network Rail licence and *The Railways (Access, Management and Licensing of Railway Undertakings) Regulations 2016*.
- 2.9 Under the BTPF Network Code proposal the final confirmed timetable would become available eight weeks in advance of a train running in a timetable (instead of twelve). As the Network Rail network licence and the Network Code are legally binding, the two must be aligned. Therefore, we can only consider the BTPF proposed reduction from T-12 to T-8 in the Network Code if there is first a modification of the network licence timeliness requirement, which currently specifies twelve weeks.
- 2.10 Network Rail's rationale for BTPF is that the new process will produce a more flexible, efficient, high quality and safer process (a further summary is provided in Annex A). It says this is because BTPF introduces:
- (a) shortened timescales allowing for more timetable changes per year (to respond to demand);

Office of Rail and Road | Initial consultation: proposals to modify Network Rail's network licence requirement on timetable publication

- (b) a reduction in duplicated effort from reworking timetables produced earlier in the process;
- (c) data improvements to improve timetable reliability; and
- (d) a greater emphasis on governance to ensure safe timetabling.

2.11 For context, Network Rail is likely to ask ORR to consider amending the Network Code timescales from twelve weeks to eight weeks (before a timetable change). The proposed licence modification and expected request to change the Network Code timescales are related as they may rely on the same evidence. However, the licence modifications we are proposing are distinct from Network Rail's Network Code proposals. This is because a decision on the network licence modifications can be reached independently of the decision on the Network Code proposals.

2.12 Following the conclusion of this consultation, we will consider any responses received. If we consider the proposals should proceed, amended as necessary, we intend to carry out a statutory consultation on the licence modifications. A procedure for licence modification is set out in section 12 of the *Railways Act 1993* (the '**Act**'). In accordance with this section, the modifications will only come into effect with Network Rail's agreement.

3. The timeliness condition for timetable publication in Network Rail's network licence

Issue

- 3.1 Condition 7 of Network Rail's network licence sets out the System Operator's network management responsibilities and obligations. These include the publication of a National Timetable and the requirement to establish and maintain efficient and effective processes reflecting best practice, applying those processes to the greatest extent reasonably practicable having regard to all the relevant circumstances so as to provide appropriate, accurate and timely information on timetables to train operators.
- 3.2 Under condition 7.18, the information on timetables is deemed to be **timely** if the System Operator has provided train operators with access to the information **not less than twelve weeks** before the date that the **Relevant Timetable Change** (see definition in chapter 5) is to have effect. This requirement applies unless to do so would conflict significantly with Network Rail's Network Management Duty¹ and, in that event, its System Operator function must provide access to the information as soon as is reasonably practicable. Since the current drafting of Condition 7.18 specifies twelve weeks, for industry to follow an alternative timescale the licence needs to be modified.
- 3.3 In January 2023, the BTPF reform programme (see Annex A) received approval from the industry Class Representative Committee (CRC) to change the timescales in the Network Code for the final publication of its timetable(s) from twelve weeks in advance (T-12) of a timetable when services run following a timetable change to eight weeks in advance (T-8). This approval was conditional upon alignment with the timeliness requirement in Condition 7 of Network Rail's network licence. Therefore, Network Rail has proposed modifications to licence condition 7.18(a) to remove the reference to twelve weeks and instead replace it

¹ Network Management Duty has the meaning set out in Condition 1.3 of the network licence.

with text that would link this condition to the timescales set out in Part D of the Network Code.

- 3.4 Network Rail has stated that if ORR agrees it has addressed this outstanding condition (and any others) from the CRC it will submit the Network Code proposal for change to ORR, to consider approval. Network Rail has agreed the proposed text in this consultation and taken legal advice on compliance with *The Railways (Access, Management and Licensing of Railway Undertakings) Regulations 2016*.
- 3.5 It should be noted that licensed train operators also have a requirement to provide information to Network Rail in a timely manner for the purposes of timetable production. This requirement does not specifically reference a timescale or the Network Code.

Discussion

- 3.6 By referring to the timescales prescribed in Part D of the Network Code rather than a specific number of weeks, we consider the proposed licence modification would not weaken the licence obligations placed on Network Rail. This is because the amended text would allow ORR to hold Network Rail to account **and enforce whatever** timescales for advance publication are prescribed in Part D of the Network Code.
- 3.7 ORR must consider whether to approve Proposals for Change to the Network Code agreed by the CRC. In order to approve a change to the Network Code timescales for publication of the timetable, ORR considers the equivalent timescale in Condition 7.18(a) of the network licence must be in alignment. Therefore, this proposed licence modification is necessary for ORR to consider the BTPF Network Code proposal to move from T-12.
- 3.8 We consider that the linking of this licence condition to the timescales set out in Part D of the Network Code means that, if the timescales set out in Part D were to change in future (e.g. a move back to T-12 or any other requirement), a licence modification would not be required to reflect that change. As ORR has an approval role in changes to the Network Code, any changes to these timescales will still require ORR approval before the Network Code is changed.

Office of Rail and Road | Initial consultation: proposals to modify Network Rail's network licence requirement on timetable publication

- 3.9 Currently, twelve weeks in advance of train services running (or a timetable change), the most up to date information should be published for passengers. This is because the timetable should be finalised. This is known as the 'Informed Traveller', or the T-12, requirement. Our understanding is that neither Network Rail nor passenger operators have met T-12 consistently for a number of years. This is a product of factors within and outside of industry's control, for example changing funder requirements.
- 3.10 From a passenger perspective, the most notable change from the BTPF Network Code proposal is that a 'confirmed' timetable would become available eight weeks in advance, rather than twelve weeks. In effect, the 'Informed Traveller' would move to T-8, which for some operators would be similar to informal industry practice for the last few years.
- 3.11 Network Rail's BTPF Network Code proposal states a draft timetable would be produced and published at twelve weeks for train operating companies to use that information. In developing BTPF, train operating companies did not provide details of whether their ticketing policies would change in any way. Therefore, it is not clear what impact publishing a draft timetable would have. However, it should be noted that some train operating companies and ticket retailers do currently offer tickets for sale in advance of the current T-12 milestone.
- 3.12 In addition, the industry [Smarter Information, Smarter Journeys \(SISJ\) programme](#), which was established at ORR's request, is specifically tasked with improving customer information both during unplanned disruption and other timetable changes which affect when trains run. The programme has already delivered the capability for retailers to notify passengers automatically who have booked tickets online if their trains are cancelled or changed.
- 3.13 We would welcome evidence from:
- (a) operators on whether this has increased their confidence to publish timetables and open up bookings on the basis of a draft timetable; and
 - (b) passenger representatives on whether SISJ has made them more confident in planning their travel.

Office of Rail and Road | Initial consultation: proposals to modify Network Rail's network licence requirement on timetable publication

- 3.14 Our current understanding, based on evidence provided by Network Rail in developing BTPF and from [Rail Delivery Group \(RDG\) correspondence](#), is that the majority of passengers purchase tickets within the eight week window before they travel. This is consistent with a [survey produced by Transport Focus](#) which states “the majority look at train times and ticket prices less than six weeks before they travel.” However, we recognise that passengers have a range of needs and that some may research their travel options earlier than when they purchase their tickets. This is something that Transport Focus has noted in their consultation responses to the BTPF programme and in [correspondence with RDG](#).

4. Proposed modification to Condition 7 text: reference to twelve weeks

4.1 We propose to make the modifications set out in red below.

Changes to the national timetable

7.17 The System Operator shall:

- (a) establish and maintain efficient and effective processes reflecting best practice; and
- (b) apply those processes to the greatest extent reasonably practicable having regard to all relevant circumstances,

so as to provide appropriate, accurate and timely information on Relevant Timetable Changes to train operators.

7.18 For the purposes of Condition 7.17, information on a Relevant Timetable Change shall be deemed to be timely:

- (a) where the System Operator has provided train operators with access to the information ~~not less than 12 weeks~~ before the date that the Relevant Timetable Change is to have effect ~~and no later than the timescales prescribed in Part D of the Network Code, as amended from time to time;~~ or
- (b) where:
 - (i) providing the information ~~in compliance with Condition 7.18(a) 12 weeks or more before the Relevant Timetable Change is to have effect~~ would conflict, to a significant degree, with the Network Management Duty; and
 - (ii) the System Operator provides access to the information to holders of passenger licences as soon as is reasonably practicable having regard to all relevant circumstances.

Q1. Do you have any comments on the proposed licence modification text, which is designed to require Network Rail to meet the timeliness requirements as described in the Network Code?

Q2. Do you consider that confirming timetables with fewer than twelve weeks' notice will impact the abilities of end users to plan journeys with confidence and/or purchase tickets? Please provide evidence to support your response.

5. Proposed modification of definition: “Relevant Timetable Changes”

Issue

- 5.1 The definition of “Relevant Timetable Changes” in the Network Rail network licence clearly identifies changes which may be introduced as a result of restrictions of use (of the network normally by Network Rail). However, it does not explicitly identify the main timetable changes introduced through the publication of the Working Timetable, currently in May and December.

Proposal

- 5.2 ORR proposes to modify the definition of “Relevant Timetable Changes” in Network Rail’s network licence. This modification would explicitly include reference to the publication of the Working Timetable on a Timetable Change Date ([as defined in 2.1 of Part D of the Network Code](#)). We understand Network Rail and train operators’ interpretation of the definition includes the main timetable change dates, despite it not being explicitly referenced.
- 5.3 However, this proposed modification would ensure clarity in the licence that the obligation for informing train operators of a Relevant Timetable Change in accordance with Part D timescales also includes the circumstances where the timetable changes on a Timetable Change Date.
- 5.4 We propose to insert the additional wording in red to the current definition of “Relevant Timetable Changes” in the network licence. The descriptions (b) and (c) are already in the licence and are unchanged.

“Relevant Timetable Changes” means changes to the national timetable of railway passenger services occasioned by:

- (a) the publication of the Working Timetable on a Timetable Change Date; or

- (b) any renewal, maintenance and enhancement of the Network; or
- (c) any restriction of use of which the licence holder is, or reasonably ought to be, aware;

Q3. Do you agree with the proposed modification to include the publication of the Working Timetable on a Timetable Change Date in the definition of “Relevant Timetable Changes”? Please provide reasons for your response.

6. Public Sector Equality Duty

ORR statement

- 6.1 The [Public Sector Equality Duty](#) requires public authorities to consider how their policies or decisions affect people with protected characteristics under the Equality Act.
- 6.2 We consider that the proposed changes to the Network Rail licence would apply to all groups equally. However, we welcome views from stakeholders from a Public Sector Equality Duty perspective.

Annex A: Better Timetables for Passengers and Freight (BTPF)

- A.1 Network Rail states Better Timetables for Passengers and Freight Users will introduce a timetable production process which:
- (a) “is driven by the needs of the passenger and freight market that it is serving”;
 - (b) “is robust and can respond more quickly to unforeseen events and evolving circumstances”;
 - (c) “provides the opportunity to respond flexibly and with greater agility to different types of timetable change”;
 - (d) “reduces abortive effort in the current processes by planning at the right times with the right information”;
 - (e) delivers “operational resourcing,... efficiencies from having base plans that can be amended with greater agility”.
- A.2 In late 2022, Network Rail proposed changes to Part D of the Network Code via a Proposal for Change (PfC 120). This proposal included moving the timetable change dates from December and May to June and October, with an additional optional intervention point in February.
- A.3 It also proposed a shortening of the timescales for the development of the Working Timetable. With timetable preparation taking place between 32 weeks and 18 weeks before a change (instead of between 40 and 26 weeks). The publication of the New Working Timetable would move to 18 weeks (as opposed to 26 weeks) before a Timetable Change Date.
- A.4 Variation requests, either by train operators or Network Rail, will take place in the 18 weeks before a change, with the final confirmed timetable published at 8 weeks. The important proposed change to timescales from a public facing

Office of Rail and Road | Initial consultation: proposals to modify Network Rail's network licence requirement on timetable publication

perspective is the final publication of the timetable for each timetable week moving from 12 weeks in advance of a timetable change to 8 weeks in advance.

- A.5 For an industry PfC to take effect the industry Class Representative Committee (CRC) must endorse it before submission to ORR. ORR will then consider it for approval. PfC 120 was endorsed by the CRC for submission to ORR for approval, contingent upon a network licence modification and Network Rail demonstrating that a move away from a December timetable change is legally compliant with *The Railways (Access, Management and Licensing of Railway Undertakings) Regulations 2016*. At the time of writing, the PfC has not yet been submitted to ORR.



© Crown copyright 2023

This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit nationalarchives.gov.uk/doc/open-government-licence/version/3

Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

This publication is available at orr.gov.uk

Any enquiries regarding this publication should be sent to us at orr.gov.uk/contact-us

