Briefing: What the Railways Bill means for the role of ORR

The Bill's impact on what ORR does and how it does it

7. ORR has a range of statutory functions which set out what it is expected to do. It also has statutory duties which set out what it is expected to consider when carrying out its functions, including when making decisions. ORR's website provides an overview of its current roles, including its current statutory duties and functions.

8. As a result of the Bill, ORR will have new and reformed functions including monitoring GBR's performance; enforcing GBR's licence; advising funders as part of the new funding process; and determining appeals of GBR decisions on capacity allocation, access and charging. ORR will no longer perform some of its existing roles, including in relation to track access and charges for use of infrastructure currently managed by Network Rail, passenger information, accessible travel, complaints, delay compensation and sponsorship of the Rail Ombudsman. Further sections of this briefing outline these changes in more detail.

9. Many of ORR's functions are not directly affected by the Bill, including:

- **Health and safety**: ORR will continue to regulate health and safety for the entire mainline rail network in Britain, as well as London Underground, light rail, trams and the heritage sector;
- **Rail statistics**: ORR will remain the primary producer of Official Statistics for rail, with the majority of ORR statistics assessed and designated as National Statistics by the Office for Statistics Regulation;
- **Competition law**: ORR will retain powers concurrent with the Competition and Markets Authority (CMA) to enforce competition law in the sector, and to conduct market studies

where rail-related markets may not be functioning well (this is separate from ORR's duty to promote competition, which is outlined below);

- Consumer law: ORR will retain powers concurrent with the CMA to enforce consumer law in the sector;
- Roads: ORR will continue to monitor and enforce the performance and efficiency of National Highways, which manages the strategic road network in England;
- Other infrastructure managers: ORR will continue to regulate non-GBR rail networks under the existing framework, for example High Speed 1, the Core Valley Lines and the Crossrail Central Operating Section of the Elizabeth line;
- Channel Tunnel: ORR will retain functions relating to international train services including economic and safety regulation of the Channel Tunnel; and
- Other roles: ORR will continue to perform other roles including train driver licensing; interoperability authorisations; station, network and service closure ratifications and regulatory functions in respect of Northern Ireland.

Statutory duties

10. The Bill provides ORR with reformed duties. These will replace ORR's existing duties under Section 4 of the Railways Act 1993 and will apply to all of our railway functions across GBR and non-GBR – except for ORR's health and safety, train driver licensing, competition and consumer law functions (where ORR will continue to enforce competition and consumer law concurrently with the Competition and Markets Authority). (The new duties include those set out in the Railways Bill at clauses 18, 19 and 20).

11. ORR's reformed duties are aligned with those of Ministers and GBR and have a strengthened focus on taking the public interest and public funding into account. These duties will define how ORR will carry out its functions. In summary, they are to:

- Promote the present and future interests of passengers, including, in particular the needs of disabled passengers;
- Promote the use of the railway for freight;
- Promote high standards of performance;
- Enable the industry to plan for the future with a reasonable level of assurance;
- Act in the public interest;
- Take the cost of public funding into account and the need to make efficient use of public

funding;

- Take safety into account in ORR's non-safety functions (clause 19);
- Take any Secretary of State or Scottish Ministers' guidance into account (clauses 21 and 22); and
- Take Secretary of State, Scottish Ministers' and Welsh Ministers' strategies into account (clause 16(2)).

12. These duties will set out what ORR must consider or aim to achieve when carrying out its roles. While some of ORR's duties in the Bill are the same as, or similar, to ORR's current duties, there are differences: for instance, ORR will no longer have specific duties relating to the environment or sustainable development, but will have a new duty to act in the manner best calculated to be in the public interest (which may include economic, social and environmental considerations).

13. Depending on the circumstances, the changes to ORR's duties could have a potential impact on ORR's policy approach in some areas or on individual decisions. As part of its transformation under rail reform, ORR will consider in detail the exact impact of its reformed duties on what it does and how it does it.

14. As today, ORR will also have a duty to promote competition – but this duty will not apply to some ORR roles including regarding appeals on access and use of GBR's network (clause 20). This means, for example, when deciding whether or not to uphold an appeal from an operator who wants access to GBR's network, ORR will not consider how best to promote competition in the provision of railway services for the benefit of users, as it does currently.

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