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Dear Charlene

**ORR opinion (under our Managing Change Policy) on Network Rail's corrections to FDM-R trajectories and floors**

Thank you for your letter dated 16 March 2021 which outlined proposed changes to the FDM-R trajectories and floors. I am aware that Network Rail has engaged with my teams on this issue on a number of occasions which has been helpful.

ORR recognises that changes can occur during the control period, which may impact on the accountability and funding agreed in ORR's Final Determination. We developed our Managing Change policy<sup>1</sup> to ensure any changes relative to settlements set in ORR's Final Determination<sup>2</sup>, are managed appropriately. This balances the need for Network Rail to respond flexibly to changing circumstances whilst providing greater certainty to Network Rail's business units (and their customers and funders) and ensuring accountability for the delivery of CP6 commitments. Our policy also supports us in comparing regions' performance, across CP6 and beyond. Network Rail is required, under its Network Licence<sup>3</sup>, to comply with this policy.

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<sup>1</sup> [https://orr.gov.uk/\\_data/assets/pdf\\_file/0008/39329/pr18-managing-change-policy.pdf](https://orr.gov.uk/_data/assets/pdf_file/0008/39329/pr18-managing-change-policy.pdf)

<sup>2</sup> <https://orr.gov.uk/rail/economic-regulation/regulation-of-network-rail/price-controls/periodic-review-2018/publications/final-determination>

<sup>3</sup> Condition 4 'Managing Change'  
[https://orr.gov.uk/\\_data/assets/pdf\\_file/0012/3063/netwrk\\_licence.pdf](https://orr.gov.uk/_data/assets/pdf_file/0012/3063/netwrk_licence.pdf)

As noted in your letter, this change is classed as a Level III Relevant Change under ORR’s Managing Change Policy and requires an ORR opinion, which is set out in this letter.

## Background

Network Rail amended the FDM-R baseline trajectories and regulatory floors in July 2020<sup>4</sup>. That change followed an unexpected impact on FDM-R from changes made to improve CRM-P which changed the way train mileage was calculated. Network Rail used a test system to generate revised trajectories and floors, but when the new system was put into effect, the changes were not in line with expectations. This update to the trajectories and floors corrects this. This is now the second occasion on which ORR, rather than Network Rail, has identified an issue with the FDM-R data provided to us. We expect Network Rail to check the data it produces and to notify us of any unexpected changes at the earliest opportunity, particularly when these are not in line with expectations previously communicated to us.

Network Rail is separately implementing a transfer of Worcester Parkway from Wales & Western to North West & Central. This change has a small impact on FDM-R, and I have therefore included this adjustment in the revised FDM-R baselines and regulatory floors for completeness.

## Impact of the change

The proposal impacts baseline trajectories and the regulatory floors for the entirety of CP6, and you propose to restate these. We are content with the change and restatement of the trajectories and floors for CP6.

The revised FDM-R baselines for CP6 are as follows. The trajectories approved in June 2019 are in brackets, and in for North West & Central and Wales & Western the updated trajectories which supersede the system correction are in bold.

	2019-20	2020-21	2021-22	2022-23	2023-24	PP change
Eastern	94.1% (94.0%)	94.1% (94.0%)	94.1% (94.0%)	94.1% (94.0%)	94.1% (94.0%)	+ 0.1
North West & Central*	94.6% (94.6%)	94.6% (94.6%)	<b>94.5%</b> 94.6% (94.6%)	<b>94.5%</b> 94.6% (94.6%)	<b>94.5%</b> 94.6% (94.6%)	-0.1 arising from Worcester

<sup>4</sup> ORR opinion of 28 July 2020 - <https://www.orr.gov.uk/sites/default/files/om/orr-opinion-on-network-rails-revisions-to-its-regional-freight-performance-metric-and-trajectories.pdf>

						Parkway transfer
Scotland	93.0% (93.0%)	Staged improvements			94.5% (94.5%)	No change
Southern	91.6% (92.8%)	91.6% (92.8%)	91.6% (92.8%)	91.6% (92.8%)	91.6% (92.8%)	-1.2
Wales & Western*	94.0% (93.4%)	94.0% (93.4%)	<b>94.1%</b> 94.0% (93.4%)	<b>94.1%</b> 94.0% (93.4%)	<b>94.1%</b> 94.0% (93.4%)	+0.6 from this system change, +0.7 including impact of Worcester Parkway transfer

The revised FDM-R regulatory floors for CP6 are as follows. The trajectories approved in June 2019 are in brackets, and in for North West & Central and Wales & Western the updated trajectories which supersede the system correction are in bold.

	2019-20	2020-21	2021-22	2022-23	2023-24	PP change
Eastern	92.6% (92.5%)	92.6% (92.5%)	92.6% (92.5%)	92.6% (92.5%)	92.6% (92.5%)	+ 0.1
North West & Central*	93.2% (93.5%)	93.2% (93.5%)	<b>93.1%</b> 93.2% (93.5%)	<b>93.1%</b> 93.2% (93.5%)	<b>93.1%</b> 93.2% (93.5%)	-0.2 from this change, -0.4 including impact of Worcester Parkway transfer
Scotland	92.5% (92.5%)	92.5% (92.5%)	92.5% (92.5%)	92.5% (92.5%)	92.5% (92.5%)	No change

Southern	89.3% (90.0%)	89.3% (90.0%)	89.3% (90.0%)	89.3% (90.0%)	89.3% (90.0%)	-0.7
Wales & Western*	92.5% (91.9%)	92.5% (91.9%)	<b>92.6%</b> 92.5% (91.9%)	<b>92.6%</b> 92.5% (91.9%)	<b>92.6%</b> 92.5% (91.9%)	+0.6 from this system change, +0.7 including impact of Worcester Parkway transfer

We note that the national measure, Freight Delivery Metric (FDM) is not impacted by these changes.

Following discussions at our working level analytical meetings on the revised train count data and ORR’s review of the associated outputs, we are content with all the revised CP6 figures presented in your letter. We also agree that the original level of challenge set in ORR’s Final Determination remains for the Eastern, North West & Central, Southern and Wales & Western regions despite the revisions to the FDM-R trajectories and floors.

We additionally note that no changes are proposed for Scotland, and that the trajectory remains one of “staged improvements” reflecting the Scottish HLOS and the end of control period target of 94.5% as set out in the PR18 settlement.

### Stakeholder engagement

As set out in our Managing Change policy, we expect Network Rail to engage with its stakeholders about changes relative to its settlement. This approach should be consistent with the principles of good stakeholder engagement<sup>5</sup>.

We note that you have engaged with the regions about this change, and that they are content with the proposed changes. We also note that you have previously engaged with Transport Scotland about this change, and they requested that the trajectories remain aligned with the HLOS and Final Determination.

Freight performance is important to the economy, freight customers and freight operators and we are keen to ensure that stretching yet realistic performance trajectories for CP6 are set and delivered by the regions. We are pleased to hear

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<sup>5</sup> The engagement should be effective, inclusive, well governed and transparent (p10) [https://orr.gov.uk/\\_data/assets/pdf\\_file/0008/39329/pr18-managing-change-policy.pdf](https://orr.gov.uk/_data/assets/pdf_file/0008/39329/pr18-managing-change-policy.pdf)

that Network Rail is further reviewing region scorecard targets in light of strong performance this year. We expect all regions to set scorecard targets for FDM-R that take account of these revised trajectories.

As noted in your letter, should any stakeholders raise any concerns on this change, please inform ORR as soon as possible.

### **Timings**

We note that you are intending to implement these changes for your 2021-22 scorecards, and restate performance to date in your 2020-21 Annual Return. We will hold Network Rail to account for its delivery to freight operators and freight customers against these revised FDM-R baseline trajectories and regulatory floors from period 1 of 2021-22.

### **ORR opinion and holding to account**

ORR's opinion is that it is appropriate for us to agree to this Level III Relevant Change to revise the FDM-R baseline trajectories and regulatory minimum floors for Eastern, North West & Central, Southern and Wales & Western regions for all of the years of CP6. We are content that the revised FDM-R baseline trajectories and regulatory floors provide the same level of challenge as set in PR18. There are no changes proposed to national FDM.

We note that the Scotland trajectory and floor will remain aligned to the Scottish HLOS, although more stretching targets are included in the Scotland scorecard.

We will continue to hold Network Rail to account for the delivery of the committed levels of performance in CP6 and from 1 April 2021 this will be based on the revised CP6 FDM-R data (as set out this letter).

Lastly, we expect Network Rail to continue its ongoing engagement with ORR and to keep us updated on any potential future impact and/or changes as early as possible.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'G. Richards', written in a cursive style.

**Graham Richards**