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Richard Price
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Date:
4 September
2013

By email

Dear Richard

PERIODIC REVIEW 2013: DRAFT DETERMINATION OF NETWORK RAIL'S OUTPUTS AND FUNDING FOR 2014-19

Thank you for the opportunity to comment on the Draft Determination of Network Rail's outputs and funding for 2014-19 (CP5). Its publication represents an important milestone towards the delivery of the investments and other priorities set out in Scottish Ministers' High Level Output Specification (HLOS).

Throughout the Periodic Review process our officials have worked closely with the ORR, and indeed with stakeholders across the wider industry, to ensure that the requirements and expectations of the Scottish Ministers are fully reflected and the implications of decisions fully understood. We would expect this mutually supportive engagement to continue until the Periodic Review process is complete.

The Scottish Ministers' HLOS sets out an ambitious package of outputs and investments which, in conjunction with the specification for the next ScotRail and Caledonian Sleeper franchises, will enable the delivery of high performing, better value rail services in Scotland while improving the capacity and capability of the Scottish network. It is vital that the ORR is able to provide the necessary assurances through the Final Determination that the outputs and objectives of the HLOS will be delivered in full and that it is affordable, in line with the availability of public funding outlined in the SoFA.

The emergence of alliance arrangements between Network Rail and train operators is resulting in different approaches to working and improving efficiency, performance and revenue growth. In Scotland there have been notable successes from this approach, particularly around the delivery of infrastructure enhancement schemes at lower cost and to accelerated timescales. The Scottish Government has also welcomed the industry initiative to explore a "deeper alliance" as part of the ScotRail refranchising process to increase efficiency and reduce costs. The ORR must continue to ensure that the regulatory framework for CP5 supports alliancing and other collaborative industry arrangements that are either operating or being developed between Network Rail and operators.

Specific comments on the Draft Determination are provided below.

Affordability of the Scottish Ministers' HLOS

The Draft Determination set out a negative funding gap of £94 million (2012/13 prices) against our Statement of Funds Available (SoFA). We welcome the supporting narrative which sets out the ORR's expectation that this gap will be closed, partly because the exact funding levels for projects have not yet been finalised. Budget certainty is vital for the Scottish Government and we now look to the ORR to protect the Scottish Ministers' funding position and ensure that the Final Determination provides an affordable and certain funding settlement, which must improve on the position set out in the Draft Determination.

Financial Framework

Transport Scotland supports the financial arrangements set out in the Draft Determination, in particular the planned adjusted WACC approach. It is vital that the financial framework for CP5 delivers better value for money for passengers, freight users and the taxpayer, and appropriately balances short-term affordability and longer-term sustainability.

Enhancement projects

The enhancement projects specified by the Scottish Ministers must be delivered efficiently, in accordance with planned timescales, and with minimum disruption to rail users on the network.

We are disappointed with the scope uncertainty that has been identified for the Aberdeen to Inverness and Highland Main Line projects and the implications this has on both project cost estimates and funding requirements. We welcome the recent steps taken to establish a forward programme but it remains vital that the ORR ensures that Network Rail has in place the appropriate procedures to develop and deliver the required HLOS outputs efficiently and timeously and ideally that this is resolved well before the 31 March 2015 deadline. For example, Transport Scotland will require a clear cost baseline for the Highland Main Line scheme by December 2013 to permit ScotRail franchise bidders to identify whole system efficiency opportunities associated with rolling stock proposals.

Fixed Track Access Charges

In general terms it remains our view that a change in the approach along the terms proposed would bring Scotland into line with the rest of the GB rail network and would better align with the ORR's overall objectives for cost reflective charging and allocation.

As indicated previously, Transport Scotland does not agree with the conclusions as set out in the Draft Determination, principally the ORR's assertion that any change to current arrangements would require prior agreement between the Scottish and UK Governments.

You are now in receipt of the relevant written material setting out the terms of the previous rail funding arrangements in this regard. You are also aware of the FTAC arrangements that have operated in CP4, albeit not the subject of a specific detailed written agreement between the governments for that period. Transport Scotland considers that an updated arrangement is required and set out our core points for this in our consultation response to Network Rail (copied to ORR) in January 2013. Although the Scottish and UK Governments seek to work together to reach agreement on cross border rail issues where possible, there is no extant agreement on this issue for CP5 and beyond. That being so, it would appear to be a matter for determination

by ORR. We look forward to your review of the documents and confirmation that ORR is prepared to determine the issue.

Transport Scotland remains clear that this is not an issue that can be deferred in full until the next Periodic Review process. Equally it is not our intention to destabilise current arrangements or the smooth transition into CP5. That said it is vital that the ORR is able to set out clearly in the Final Determination for CP5 how this issue will be dealt with through the duration of CP5 and beyond. Transport Scotland would therefore support a transitional arrangement through CP5 - developed in accordance with the principles set out above and via our previous representations on this matter - that would allow funders, the ORR, Network Rail, operators and other industry stakeholders to develop and understand any new arrangements and their implications with a view to implementing these in full from the start of CP6. Having regard to the procurement programme for the ScotRail franchise and the need to give clear information to bidders to secure efficient bids, it is highly desirable that the Final Determination provides clarity on access charges for CP5.

The Draft Determination also notes that a different approach to calculating FTAC may need to be taken for the new, separate Caledonian Sleeper franchise and that this issue will be considered further with Transport Scotland as plans develop. Our position remains that the characteristics of the Caledonian Sleeper franchise are such that it may be more appropriate to treat it in a manner broadly comparable with an open access operator. However we are equally clear that this should in no way compromise the rights of the Caledonian Sleeper franchisee to overnight paths and station access. The procurement of the Caledonian Sleeper franchise is running ahead of the ScotRail franchise. Therefore it is desirable for Transport Scotland to be able to advise bidders of the basis of track access charges by the end of September 2013.

Carstairs Junction

The Draft Determination acknowledges the specific opportunity within CP5 to take advantage of planned renewal activity at Carstairs and significantly reduce long distance journey times, primarily to the benefit of cross-border services. Transport Scotland's position regarding this investment will ultimately depend on the decisions taken by the ORR around FTAC.

Network Grant

In planning rail budgets for 2014/15 and beyond Transport Scotland was expecting a shift back towards network grant (capital) compared to the final years of CP4. Given broader pressures being placed upon Scottish Government resource budgets we are reliant on a final level of network grant consistent with Scenario 1 as set out in the Draft Determination. Any movement towards a higher balance of funding direct through the ScotRail franchise (resource) will constrain our ability to meet Scottish Government accounting and reporting rules and threaten overall programme affordability.

Ultimately, we would expect the ORR to take the approach which represents the best value for money for taxpayers and rail users, and which best supports the on-going development of the rail network and services. In this case, this is Scenario 1.

Cross-border route availability

Our HLOS specified that at least one cross border route between Scotland and London be available at all times. We are disappointed that the ORR does not believe that this will always be possible, particularly on bank holiday weekends. Such weekends tend to generate additional Anglo Scottish traffic, so this is a far from optimal position. Indeed recent correspondence from

Network Rail has advised that there is likely to be disruption affecting both Anglo-Scottish routes to London in the early stages of CP5. The Scottish Ministers find a position, where business and leisure travellers leaving from Scottish stations are unable to directly access London via rail, to be completely unacceptable and not one which any Government of any nation, in a comparable position, would agree to. It has proved possible in the recent past to maintain at least one route open at all times, so a retrograde step back from this established position would represent an unnecessary lack of focus on the needs of rail passengers. It also places a considerable risk on transport resilience both in terms of Scotland and the rest of the UK.

We look forward to better understanding your determination that the availability of a cross-border route will be used as an indicator and your expectations with respect to Network Rail using all reasonable endeavours to keep at least one cross-border route open at all times.

Journey times

Our HLOS specified the requirement for a process to be established which would enable all opportunities for journey time improvements through planned works, network maintenance, network changes, timetabling and signalling exercises to be explored and implemented where they offer value for money.

In the Draft Determination the ORR has stated that it will monitor Network Rail's progress in this area. It also sets out your broader consideration of having a journey time indicator and plans to work with Network Rail and Transport Scotland to develop a suitable measure that reflects the particular requirements of the Scottish Ministers. As such we are unclear as to the requirements that you are placing upon Network Rail to deliver against this. Our experience is that in the absence of a clear and measurable assessment of journey time, pressures driven by performance measures lead to a steady erosion of journey times.

We think it is necessary to set a clear journey time metric now, and we are not persuaded it is necessary further to defer this consideration.

We consider it desirable that incentives for the operator of ScotRail and Network Rail in Scotland should be consistent and aligned. The specification for the next ScotRail franchise will include a journey time metric and improvements will be incentivised through the procurement and contracting process. Our proposals for this metric are attached as Annex A to this letter. In the absence of any other proposals for a journey time metric we propose that the ScotRail metric should also apply to Network Rail as part of the CP5 Final Determination.

We would expect the Final Determination to set out a process which clearly demonstrates that this HLOS requirement will be taken seriously both by the ORR and Network Rail, especially given the detailed monitoring and incentivisation of performance. As an absolute minimum, we would expect to avoid the uncertainty which emerged as a result of the Final Determination for CP4.

Passenger performance – KPI package

The HLOS requirement to develop Key Performance Indicators (KPI's) for passenger performance has a dual purpose for performance monitoring and management information in CP5 and also to inform the development of passenger performance outputs and measures for CP6. We look to the ORR to ensure that the reporting methodology reflects this.

Possessions and performance regimes

The cost impact of planned changes to the Schedule 4 and 8 regimes is significant for Transport Scotland. We need a clear understanding of the benefits to funders and passengers that this extra cost brings. As a minimum we would expect the ORR to review these changes to absolutely ensure that rates are set at the right level and final arrangements provide value for funders and provide a strong financial incentive to minimise disruption across the network.

As part of the considerations for the next periodic review (CP6), we would expect the ORR to undertake a root and branch review of the effectiveness of Schedules 4 & 8 and the level to which the regime is still fit for purpose and value for money in an environment where Network Rail and train operators are moving towards greater collaboration.

Change control

We note that ORR is able to modify Change Control outputs at the point of Determination or at refranchising but not through a general revised Change Control process. This is in line with the representations made in our previous consultation responses. We do, however, look to the ORR to ensure that the outputs as set out in the HLOS are fully delivered over the duration of CP5.

Freight

The ability of the rail freight industry to compete against road and other modes of transport is dependent on a stable and affordable charging model for access to the network. We therefore welcome the consideration given by the ORR to the Scottish coal industry and the confirmation that freight access charges will be substantially below the levels proposed in January.

Going forward we expect the ORR to continue to monitor and assess the impact of freight charging across the industry, particularly in terms of the coal industry and crucial cross-border flows. It is vital that the longer-term charging regime is able to facilitate growth and long-term investment across the rail freight sector.

I can confirm that Transport Scotland does not require any of this response to remain confidential.

*Yours sincerely
A. Grisewood*

AIDAN GRISEWOOD

Journey Time Metric Proposal

Train performance is typically measured in terms PPM or Right Time, with both measures calculating the proportion of services that arrive within a defined window of their scheduled arrival time. There are therefore two ways of improving train performance statistics; either:

1. Increasing the reliability and capability of the train and network itself, or
2. Adjusting the published arrival time, and therefore journey time to include more contingency.

The second approach is akin to “moving the goalposts”, and is not consistent with the Scottish Government’s strategic transport objective of improving journey time and connectivity. Journey times are important for economic reasons and also to encourage modal shift to rail by passengers considering which mode of transport to use.

A Journey Time Metric is proposed to provide a balancing incentive to the second approach. This will help to focus efforts on performance initiatives which genuinely improve train and network performance and reliability.

Since both journey time and performance require cooperation between a train operator and Network Rail, it is proposed that the same Journey Time Metric should be used in both the ScotRail Franchise Agreement as part of the Service Level Commitment, and in the Final Determination for Network Rail’s CP5 obligations.

The Service Level Commitment of the next ScotRail franchise will specify minimum stopping patterns and frequencies on each route, which will act as a safeguard against any perverse incentive to secure journey time improvements at the expense of service levels.

It is proposed that the metric is calculated as follows:

Journey Time Metric (mins per mile) = Total Planned Journey Time (mins) / Total Planned Distance (miles)

A single metric is proposed for each of Express, Suburban and Rural services, based on passenger services only.

Services which cross Edinburgh, Glasgow Central, Glasgow Queen Street and Aberdeen may be split for the purposes of this calculation, i.e. the dwell time at these stations is not included in the metric.

Journey Times are based on the Passenger Timetable (i.e. the advertised time), not the Working Timetable. Planned Journey Times should be rounded up to the next minute if the policy at the origin station is to close train doors 31 seconds or more before departure.

Journey time improvements may be secured broadly through two types of initiative:

1. Investments specifically intended to secure journey time improvements as part of their outputs. For example, both EGIP and the Highland Mainline improvements in CP5 have minimum journey time improvements as key outputs.

2. Opportunities for journey time improvements realised in the course of routine railway maintenance, renewal, development and operational activities. For example, removal of speed restrictions, track renewals, re-signalling schemes, rolling stock allocations and timetable review processes.

Type 1 improvements are already specified and funded. The Journey Time Metric should incentivise delivery of Type 2 improvements. It is intended that the pursuit of journey time should be re-introduced as a priority in routine railway management activities.

Accordingly, the Journey Time Metric should be capable of distinguishing between Type 1 and Type 2 improvements.

Initial analysis of the May 2012 timetable produces the following benchmark levels:

Service Group	Express	Suburban	Rural
Minutes per Mile	1.15	1.92	1.44

It is proposed that these benchmark levels should be reviewed, and adjusted (improved) for each year of CP5 to take account of Type 1 journey time improvements already specified and funded, and thus to provide a target benchmark for each year. Success in realising Type 2 journey time improvements may be measured as outperformance against these new benchmarks.