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30 October 2018

Dear Schedule 4 and 8 Working Group

### **Final decision: Schedule 4 sustained planned disruption revenue and cost thresholds recalibration**

1. This letter sets out our final decision to maintain the current sustained planned disruption revenue threshold criteria and uplift the cost thresholds by inflation for the next control period (CP6).

### **Background**

2. Under the Schedule 4 possessions regime, all passenger operators can enter into negotiations with Network Rail to claim actual revenue loss and cost compensation for the most disruptive possessions, known as Sustained Planned Disruption (SPD). SPD claims are triggered where the level of revenue loss or costs faced by TOCs due to possessions exceed pre-determined thresholds.
3. In response to our December 2016 Charges and Incentives consultation<sup>1</sup>, a number of passenger operators called for a review of SPD revenue thresholds, arguing that the current thresholds are too high to ever trigger an SPD claim. However, no operators submitted any empirical evidence to demonstrate that there was a material problem with the existing thresholds.
4. In our consultation on notification factors in December 2018<sup>2</sup>, we said that there was little evidence to support a detailed review of revenue thresholds. However, we also said that we were willing to consider a new approach for updating these thresholds, should one be proposed by the RDG as part of its Schedule 4 recalibration process.

### **Our decision**

5. We have received no proposals from RDG for updating the SPD revenue loss thresholds. We have therefore decided to maintain current SPD thresholds, as described below.

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<sup>1</sup>[http://orr.gov.uk/data/assets/pdf\\_file/0019/23482/charges-and-incentives-consultation-document.pdf](http://orr.gov.uk/data/assets/pdf_file/0019/23482/charges-and-incentives-consultation-document.pdf)

<sup>2</sup>[http://orr.gov.uk/data/assets/pdf\\_file/0005/26294/pr18-consultation-on-amending-schedule-4-notification-factors-2017-12-18.pdf](http://orr.gov.uk/data/assets/pdf_file/0005/26294/pr18-consultation-on-amending-schedule-4-notification-factors-2017-12-18.pdf)

### ***SPD revenue thresholds***

6. Revenue thresholds represent a proportional loss of farebox revenue due to planned possessions relative to defined service group revenues<sup>3</sup>.
7. An SPD claim based on revenue loss is triggered where Schedule 4 revenue loss compensation is either:
  - greater than 20% of 1/13 (one-thirteenth) of defined service group revenue over 3 consecutive periods;
  - greater than 15% of 1/13 (one-thirteenth) of defined service group revenue over 7 consecutive periods.

### ***SPD cost thresholds***

8. SPD cost thresholds represent the minimum difference between Schedule 4 formulaic cost compensation and reasonably incurred costs that needs to be observed over a number of consecutive periods before an SPD claim can be triggered. SPD cost threshold 1 needs to be observed over at least 3 consecutive periods and SPD cost threshold 2 needs to be observed over at least 7 consecutive periods.
9. There are two SPD cost threshold rates that apply for passenger operators, a higher and lower rate. The operators to which each rate applies is set out in the first column in Table 1 below.
10. We have decided, in the absence of other evidence, that SPD cost thresholds in CP6 should be the CP5 cost thresholds uplifted for the RPI measure of inflation, as set out in the Table below.

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<sup>3</sup> The recalibration of defined service groups is being carried out by RDG.

**Table 1: SPD Cost Thresholds**

SPD threshold rate applicable to each passenger operator	CP5 SPD Cost Threshold 1 (2012 -13 prices)	CP5 SPD Cost Threshold 2 (2012-13 prices)	CP6 SPD Cost Threshold 1 (2017 -18 prices)	CP6 SPD Cost Threshold 2 (2017 -18 prices)
<u>Lower rate</u> C2C, Chiltern, Grand Central, Heathrow Express, Hull Trains, LOROL, Merseyrail	£304,750	£609,500	£342,223	£684,447
<u>Higher Rate</u> All other TOCs	£609,500	£1,219,00	£684,447	£1,368,893

Yours faithfully,



Pedro Abrantes