

*ORR protects the interests of rail and road users, improving the safety, value and performance of railways and roads today and in the future*



# Freight customer event

Welcome

21 November 2018

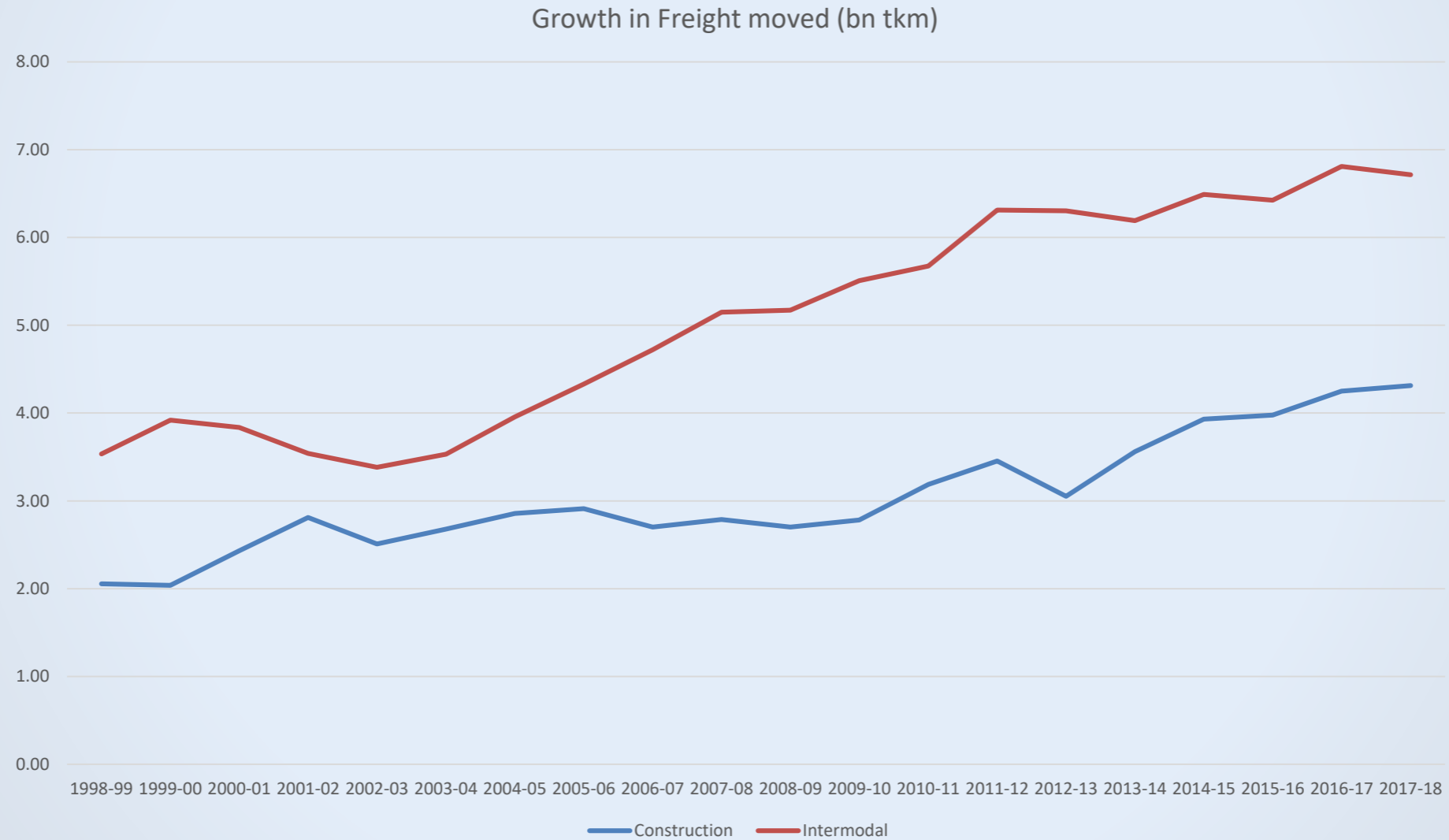
# Setting the Context

## ORR Freight Customer Event

Maggie Simpson  
Director General – RFG  
21 November 2018



# Growth – the long view

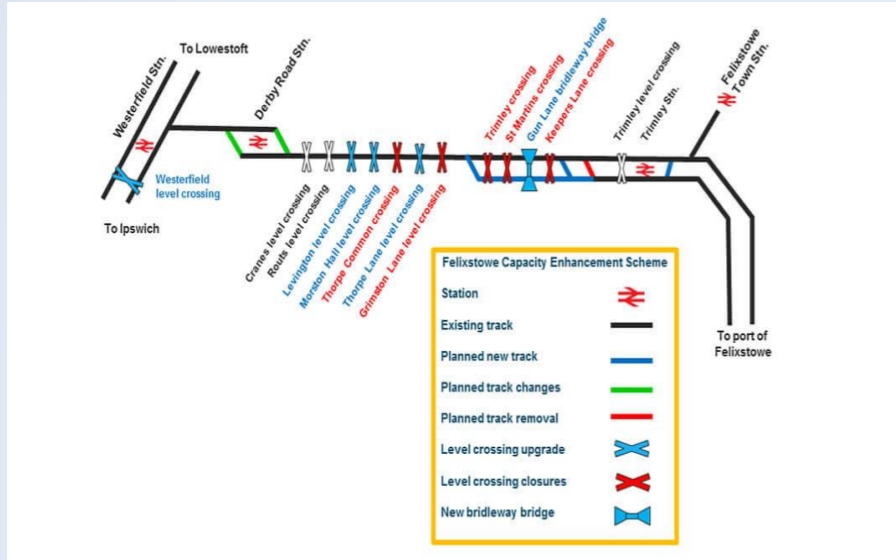


# Renewing the environmental case



- Working to update environmental measurements and comparisons.
- Research to inform future traction options including potential to replace / supplement diesel.
- Continued pressure for longer trains, moving more with each locomotive.
- Consideration of options to improve air quality emissions in terminals.

# Investment needs for next control period



4320 lorries  
shifted from road to rail each day under  
Midlands Rail Hub plans



# Positioning for successful Brexit

Brexit BOOST for Network Rail as expensive EU regulations set to be DROPPED

CA  
cul

## 'Don't forget rail' in Brexit talks, urge UK industry leaders

By Benjamin Fox and Ian Hall | EURACTIV.com



Most read in UK



## Rail industry seeks post-Brexit customs depots around UK

Inland freight terminals would ease congestion at Channel tunnel, says group



# Rail Review raises questions for freight.



# Summary

- Strong prospects for rail freight growth
- Rail freight sector is working to reconfirm its environmental position for the future.
- Brexit remains a risk, but work is developing on key areas including Channel Tunnel.
- Potential structural reform needs careful thought to be a positive for freight sector.

# Thank You



[maggie@rfg.org.uk](mailto:maggie@rfg.org.uk)  
[www.rfg.org.uk](http://www.rfg.org.uk)





# CP6 freight access charge decisions

Freight customer event  
21 November 2018

Pedro Abrantes

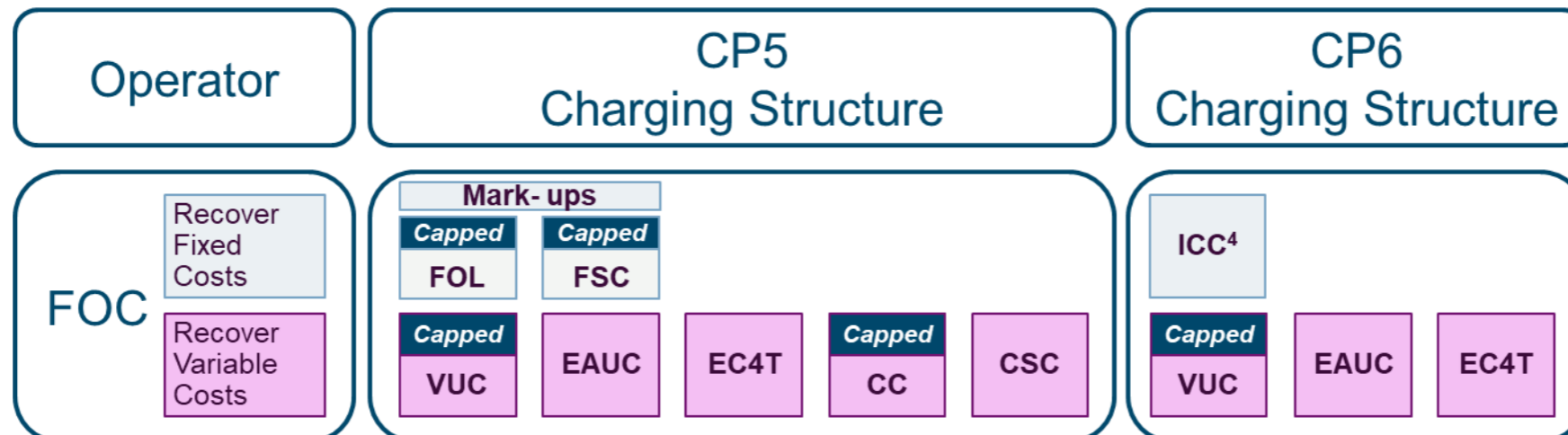
# Headlines

## Charging framework:

- Stability
- Simplification

## Quantum:

- 2019 – 2021: Variable costs going up by CPI inflation
- 2021 – 2028: Variable costs going up by CPI + ~3.2% p.a.
- Infra costs going up by CPI for ESI coal, iron ore and spent nuclear fuel
- Biomass to pay Infra Cost Charge from 2021

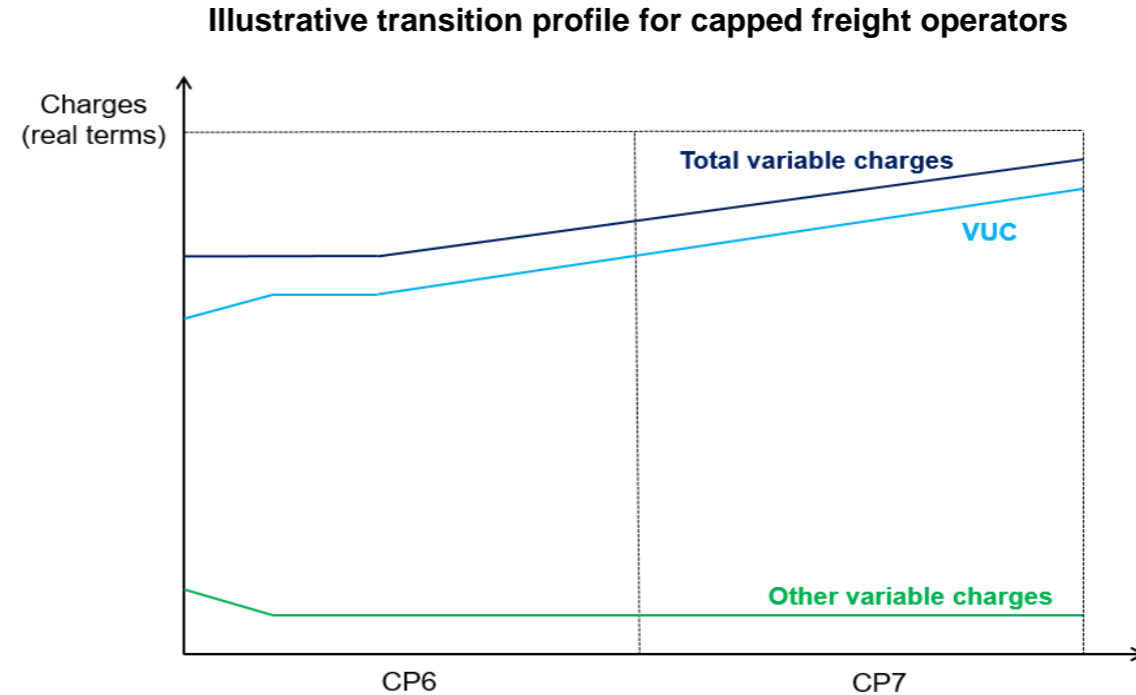


# Variable charges - headlines

- Legal framework:
  - Infra costs directly incurred must be recovered from operators
  - Changes can be capped and phased-in over a finite period of time
- Capacity charge and coal spillage charge will be scrapped = **saving**
- But:
  - CP5 capping catching-up with us
  - NR variables costs have continued to increase
- Without capping/phasing-in, total variable charges would have gone up by 26% + inflation over CP6
- Capping/phasing-in mean that:
  - **2019-2021: variable charges will increase with CPI inflation**
  - **Overall CP6 increase = CPI inflation + 10%**
  - **Change from RPI to CPI further expected to save 5% by end of CP6.**

# Variable Usage Charge capping/phasing-in detail

- Decision took account of ORR's statutory duties, in particular:
  - Better use of the network
  - Supporting rail sector growth and stability
  - Impact on funding



- **Total variable charges will increase by CPI inflation between March 2019 and March 2021**
- **Then transitioning to uncapped levels via a steady straight-line 'glide path' to end of CP7 (March 2024) ~ CPI + 3.2% p.a.**
- **The increase in total variable charges over CP6 will be CPI+10%**

# Infrastructure cost charges (1)

- Freight-only line (FOL) and freight specific charge (FSC) being replaced with overall infrastructure cost charge (ICC)
- ESI coal, iron ore and spent nuclear fuel will continue to be charged ICCs
- Charges will increase with CPI inflation
  
- Freight services carrying biomass for the electricity supply industry (ESI biomass) deemed to be able to bear a mark-up charge in CP6
  - This will be introduced in April 2021 and increase gradually to the end of CP6
  - Our decision took into account the fact that there could be some reduction in biomass traffic as a result of this charge.

## Infrastructure cost charges (2)

Similar to the way ICCs were introduced for ESI coal, iron ore and spent nuclear fuel in CP5, the charge will be phased in for biomass services over CP6.

2017-18 prices	2019-20	2020-21	2021-22	2022-23	2023-24
<b>ESI coal</b>	1.6	1.6	1.6	1.6	1.6
<b>Iron ore</b>	1.6	1.6	1.6	1.6	1.6
<b>Spent nuclear fuel</b>	34.2	34.2	34.2	34.2	34.2
<b>ESI biomass</b>	0.0	0.0	0.3	0.9	1.4

Note: charge in £ per thousand gross tonne mile (kgtm). Biomass takes into account phase-in profile.

YEOMAN



# ORR Freight Customer Event Network Rail update

Paul McMahon  
Managing Director, Freight & National Passenger Operators  
21<sup>st</sup> November 2018

# Safety moment



# Freight & National Passenger Operators

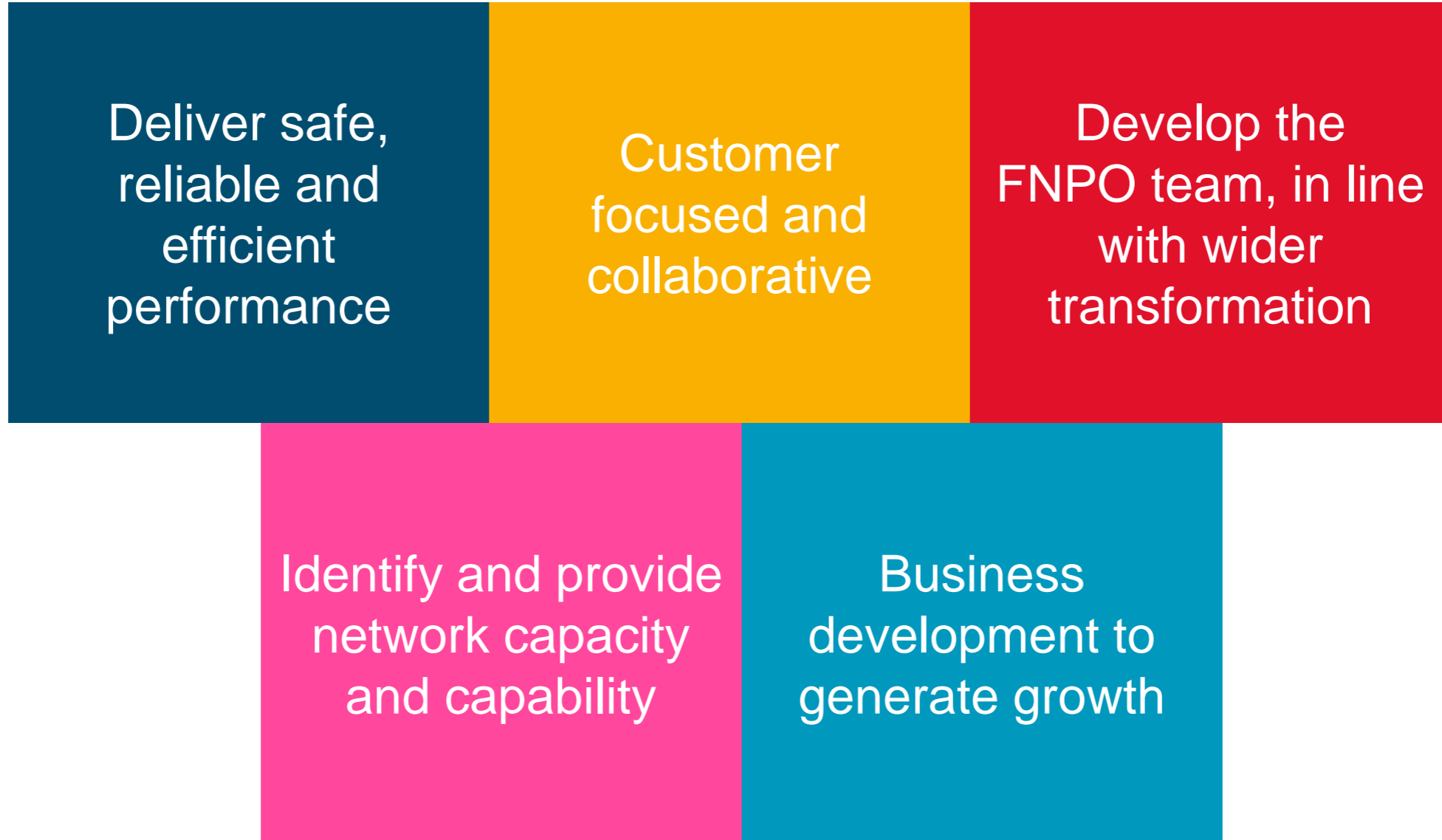
- Established as “ninth operational route” or “virtual route”
- Formation of FNPO, built on National Freight team, established following McNulty
- Strongly supported by customers and stakeholders with high levels of FNPO people engagement
- Do not physically operate infrastructure but are accountable for outputs
- Principal point of contact with customers who operate over multiple routes
- Work closely with rail freight end users, who include ports, aggregates companies, third party logistics providers



## Our Purpose

Deliver growth and provide excellent service for our customers and stakeholders, through improving safety and performance, and enhancing capacity and capability, at an efficient cost



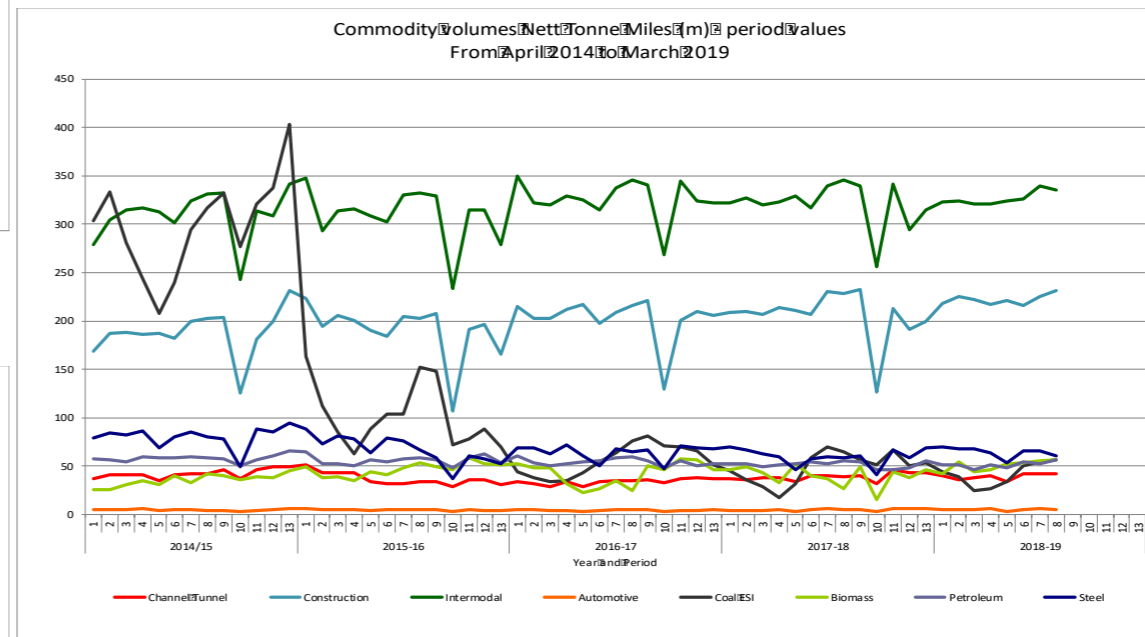
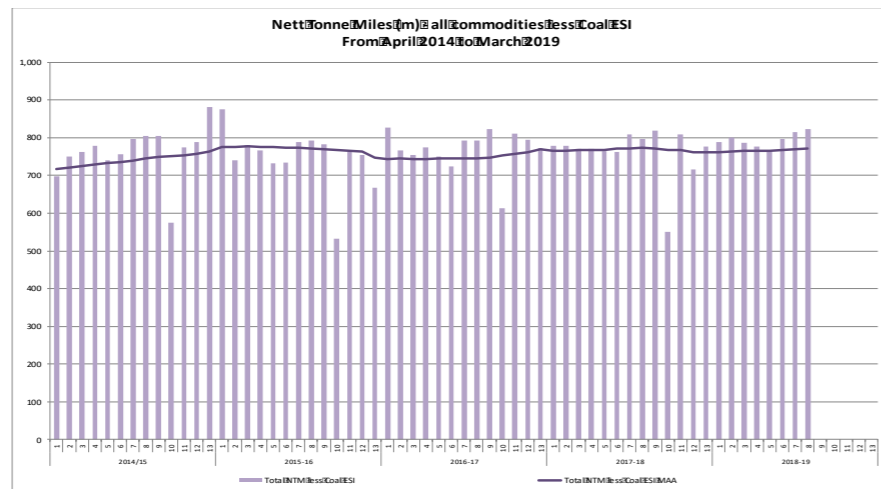
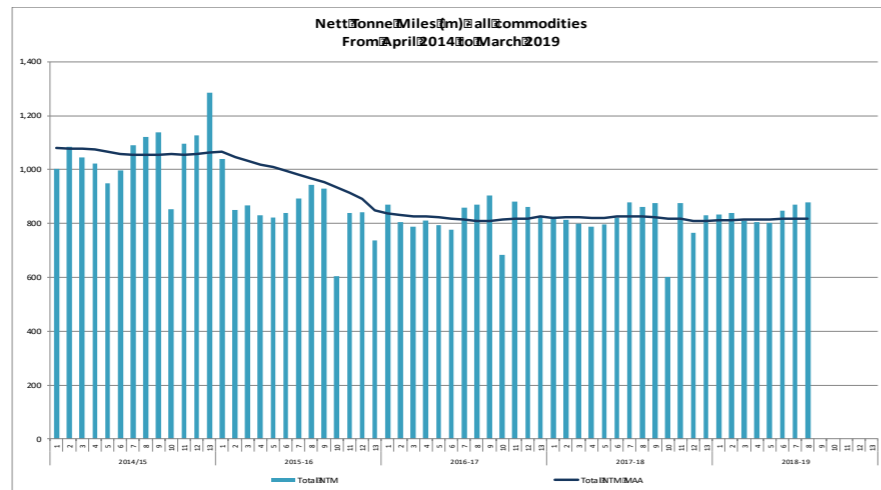


# FNPO Route Scorecard at Period 8



Route Scorecard - FNPO												Period Business Review	
Report Owner - Paul McMahon													
Metric	PRP Weighting	Period		YTD		FYF							
		Actual	Target	Actual	Target	FYF	Worse than Target	Target	Better than Target	FYF Achievement	FYF Weighted Achievement		
<b>Safety - (PRP 20%)</b>													
Work related absence	5.0%	0	1	0	13	10	40	20	0	75%	3.75%		
Derailments	4.0%	0	1	8	6	13	13	10	7	0%	0.00%		
SPADs	4.0%	4	3	33	24	50	48	40	32	0%	0.00%		
Close Calls Raised	2.0%	19	13	162	111	229	131	175	219	100%	2.00%		
Close calls closed within 90 days	2.0%	100%	90%	100%	90%	100%	80%	90%	100%	100%	2.00%		
Operator lost time incidents on NR infrastructure	3.0%	0	1	2	7	6	16	12	8	100%	3.00%		
<b>Train Performance Measures - (PRP 20%)</b>													
Freight Delivery Metric (FDM-R)	6.0%	94.0%	92.8%	93.1%	93.7%	93.4%	92.5%	94.0%	94.5%	30%	1.80%		
Right time Departures - Freight	3.0%	76.9%	79.0%	78.4%	79.7%	79.2%	78.0%	81.0%	84.0%	20%	0.60%		
FOC on TOC (DM/100 train km)	2.0%	1.72	1.37	1.39	1.23	1.18	1.25	1.18	1.16	50%	1.00%		
Delay per Incident - Freight	0.0%	35.5	30.0	27.5	26.6	26.8	26.3	27.1	28.0	31%	0.00%		
Cross Country - PPM	3.0%	82.5%	87.1%	83.5%	87.9%	82.3%	89.2%	90.0%	90.8%	0%	0.00%		
Cross Country - CaSL	3.0%	5.7%	4.7%	6.6%	5.1%	6.8%	4.0%	3.9%	3.8%	0%	0.00%		
Cross Country - Time to 3 minutes	0.0%	63.6%	64.9%	67.2%	72.7%	65.4%	72.5%	73.5%	74.5%	0%	0.00%		
Cross Country - Cancellations	0.0%	2.49%	2.86%	3.27%	3.13%	3.20%	2.95%	2.85%	2.75%	0%	0.00%		
Caledonian Sleeper-Right Time	3.0%	77%	70%	76%	77%	80%	75%	80%	85%	50%	1.50%		
Charter Trains - performance measure	0.0%	89%	91%	90%	91%	88%	86%	88%	90%	50%	0.00%		
<b>Investment &amp; Asset Management - (PRP 10%)</b>													
CPS SFN schemes - current year GRIP 6 completion vs baseline	10.0%	90%	90%	90%	90%	90%	80%	90%	100%	50%	5.00%		
<b>Customer - (PRP 30%)</b>													
Net tonne miles moved - Freight (Great Britain) - (billions)	4.0%	1.0	0.9	7.1	6.5	11.4	9.4	10.4	11.4	98%	3.92%		
Freight service plan reviews - delivery against agreed milestones	3.0%	100%	90%	94%	90%	90%	80%	90%	90%	50%	1.50%		
Strategic capacity - Freight	3.0%	21%	10%	21%	10%	10%	5%	10%	15%	50%	1.50%		
Cross Country - Average minutes lateness	4.0%	6.05	5.29	6.14	4.96	6.16	4.40	4.35	4.30	0%	0.00%		
Cross Country - Access planning agreed milestones met	4.0%	81%	80%	78%	80%	78%	75%	80%	85%	30%	1.20%		
Caledonian Sleeper - Roll up of customr scorecard	3.0%	60%	50%	56%	50%	50%	0%	50%	100%	50%	1.50%		
Charter planning compliance	3.0%	50%	50%	56%	50%	75%	0%	50%	100%	75%	2.25%		
Freight End Use (FEU) satisfaction	6.0%	61%	73%	61%	73%	73%	68%	73%	78%	50%	3.00%		
<b>Financial Performance - (PRP 15%)</b>													
Financial Performance Measure (FPM)	15.0%	-6%	0%	-1%	0%	-1%	-10%	0%	10%	47%	7.04%		
<b>People - (PRP 05%)</b>													
Your Voice Action Plans - delivery against agreed milestones	5.0%	100%	80%	100%	80%	95%	70%	80%	90%	100%	5.00%		
	100%	60%									47.56%		

# Freight traffic trends



# Capacity & Capability – Total SFN Contributions £419.7m



Scheme	SFN funding (£m)	Complete (freight part)	Output
Ipswich Chord	50.5	Mar-14	Increased capacity, faster journey times
Ipswich Yard	32.7	Dec-14	Increased capacity, longer trains, better operations
North Lincolnshire resignalling and re-control	4	Jan-16	Improved operations
Southampton – WCML diversionary gauge	29.2	Jul-16	Clearance for diversionary capability
Southampton Freight Train Lengthening	90.5	Mar-19	775m capability
Banbury area remodelling / Oxford corridor	20.2	Mar-19	Line speed improvement, reduced headways
Northern Ports Freight Capacity	8	Mar-19	Improved capacity to Port of Liverpool
Great Western Main Line gauge clearance	15.2	Mar-19	Clearance for 9'6" high maritime containers on standard deck wagons between London and Bristol/Cardiff
Thames Haven Level Crossing improvements	0.5	Mar-19	
Peak Forest Freight Train lengthening	48.9	Mar-19	Longer, heavier trains, upto 3000t
Gauge clearance schemes connecting W Midlands / S East with N East / Scotland	67.3	Mar-19	Clearance for 9'6 high maritime containers and domestic/European swapbodies on standard deck wagons
Ripple Lane Nodal Yard (GRIP 3)	0.3	Jul-19	Enables European traffic to access terminals in Barking/Dagenham area
Felixstowe Branch Line Capacity	52.4	Aug-19	Upto 47tpd each way

# Freight End User survey (July 2018)



Question	Score (out of 5)
1 – During the last 6 months, how satisfied are you with Network Rail overall?	3.47
2 – During the last 6 months how satisfied are you with the Network Rail Freight?	3.13
3 – In the last 6 months are you satisfied Network Rail has put safety first in its dealings with your company?	3.93
4 – During the last 6 months how satisfied are you with Network Rail infrastructure reliability and performance?	3.13
5 – During the last 6 months how satisfied are you with the progress of any current / relevant Network Rail delivered projects (eg Strategic Freight Network / other Enhancements / improvements)?	2.80
6 – Thinking about the last 6 months how satisfied are you that Network Rail is helping to deliver your wider business objectives?	3.47

**Overall score 61% against a target of 73%**

# Proposed Freight End User Scorecard



Freight End User Scorecard		Satisfaction	Traffic		Performance			Safety
		FEU Satisfaction	Total Net Tonne Miles Moved	Freight Network Utilisation (TBC)	Right Time Departures at Origin Top 10 locations	FDM	A2F	Derailments
All Commodities	Target	TBC	TBC	TBC	TBC	TBC	TBC	TBC
	Actual	TBC	TBC	TBC	TBC	TBC	TBC	TBC
Intermodal	Target	TBC	TBC	TBC	TBC	TBC	TBC	
	Actual	TBC	TBC	TBC	TBC	TBC	TBC	
Construction	Target	TBC	TBC	TBC	TBC	TBC	TBC	
	Actual	TBC	TBC	TBC	TBC	TBC	TBC	
Metals	Target	TBC	TBC	TBC	TBC	TBC	TBC	
	Actual	TBC	TBC	TBC	TBC	TBC	TBC	
Energy	Target	TBC	TBC	TBC	TBC	TBC	TBC	
	Actual	TBC	TBC	TBC	TBC	TBC	TBC	
Automotive	Target	TBC	TBC	TBC	TBC	TBC	TBC	
	Actual	TBC	TBC	TBC	TBC	TBC	TBC	
Royal Mail	Target	TBC	TBC	TBC	TBC	TBC	TBC	
	Actual	TBC	TBC	TBC	TBC	TBC	TBC	
Other	Target	TBC	TBC	TBC	TBC	TBC	TBC	
	Actual	TBC	TBC	TBC	TBC	TBC	TBC	

# CP6 ORR FNPO Determination – key points for freight

## FNPO Route

- Noted that FNPO route is different
- Role is to provide “advocacy” for customers across all NR

## Stakeholder engagement and satisfaction

- Continue customer/FEU satisfaction surveys
- Set up Supervisory Board

## CP6 Scorecards

- Content with Route scorecard targets
- FDM 94.0%; FDM on Route scorecards
- All ‘TBC’ to be agreed by March 19
- Supportive of customer scorecards
- FEU scorecard to be developed

## Access charges

- Freight access charge increases – capped and phased

## Safety

- Allocated £22m to address and mitigate safety risk

## Scotland

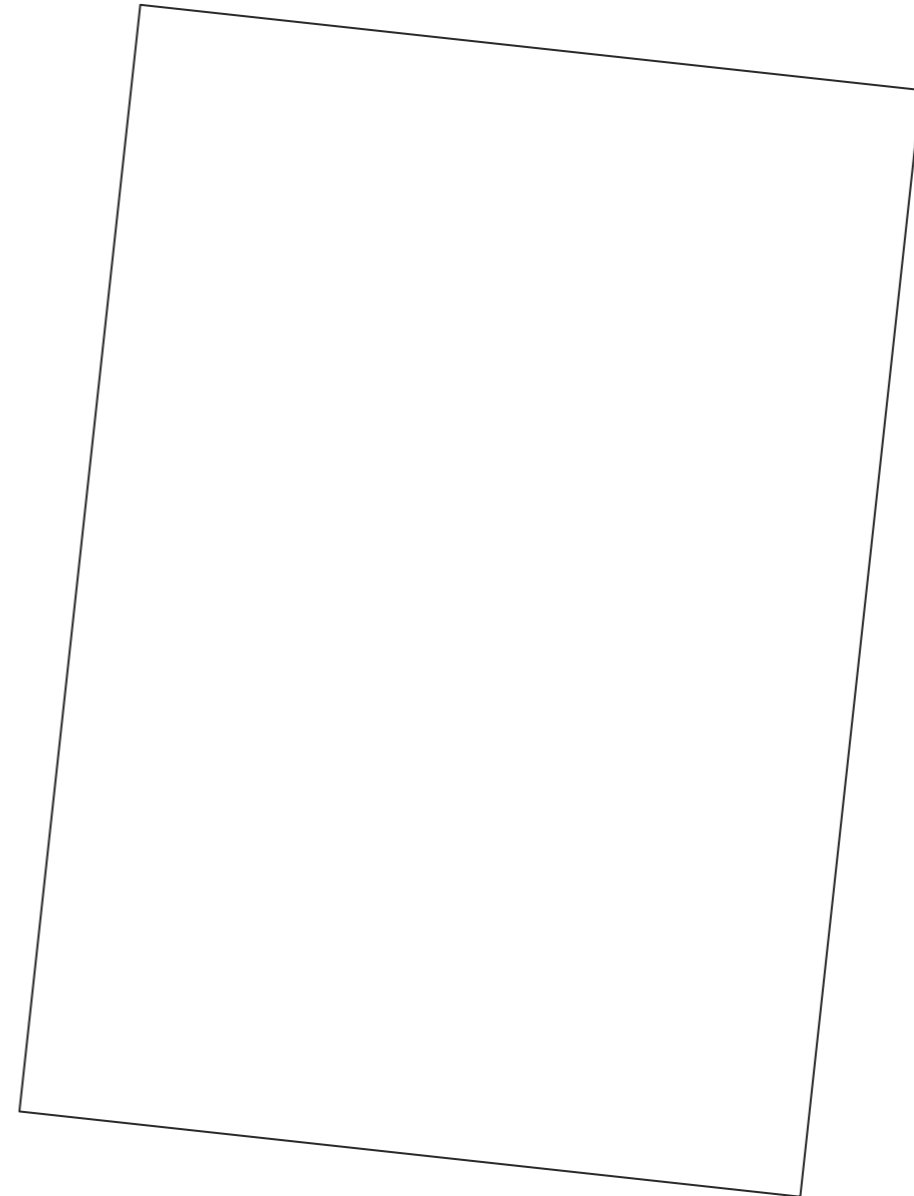
- Specific measures for growth, gauge and journey time

## Capacity & capability

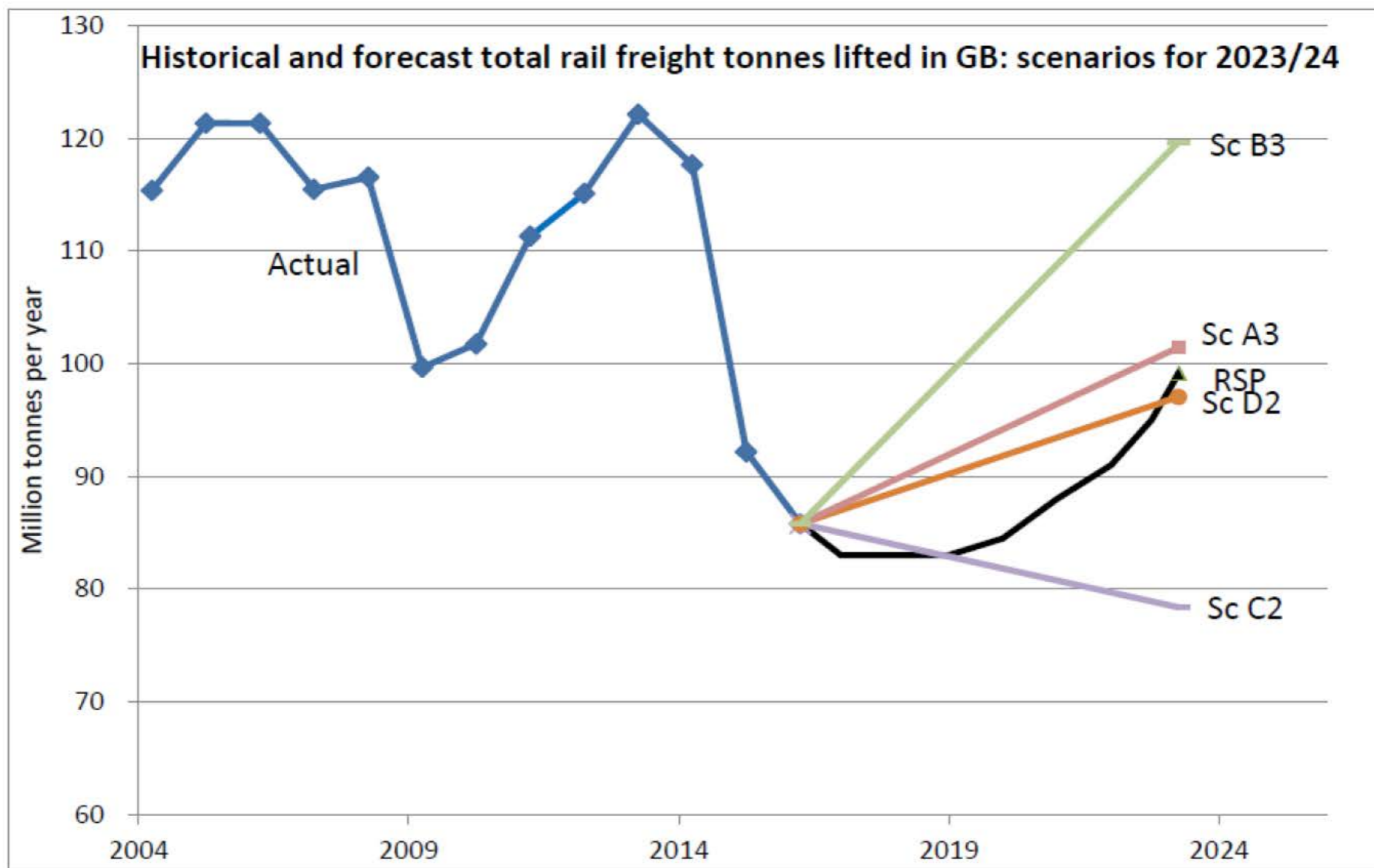
- Maintain published and operational capability
- 15.6% growth in freight moved assumed

## Financials

- £28m for Opex

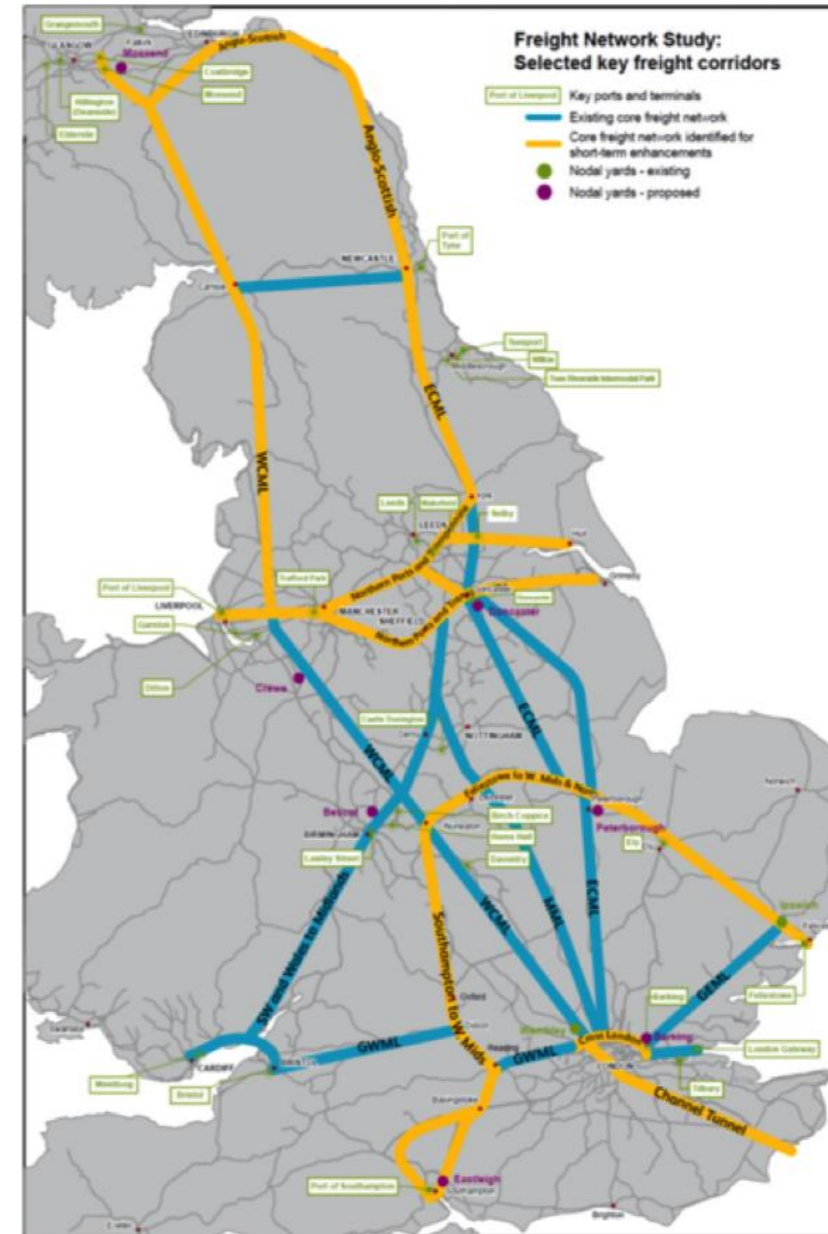


# CP6 Traffic Forecast



# CP6 candidate enhancement schemes

Key Freight Corridor	CP6 Candidate Freight Schemes	Estimated cost range
<b>Felixstowe to West Midlands &amp; the North</b>	<ul style="list-style-type: none"> <li>- Doubling of Haugley Jn</li> <li>- Signalling Headways Bury</li> <li>- Ely area (level crossings / bridge speeds)</li> <li>- Ely to Soham doubling</li> <li>- Peterborough - Syston signalling/level crossings</li> <li>- Syston – Sheet Stores gauge (W10/W12)</li> <li>- Further refine layout at Ipswich Yard</li> </ul>	<ul style="list-style-type: none"> <li>£10m – £15m</li> <li>£50m – £70m</li> <li>£100m – £250m</li> <li>£120m – £150m</li> <li>£50m - £60m</li> <li>£5m - £10m</li> <li>£1m - £5m</li> </ul>
<b>Southampton to West Midlands &amp; WCML</b>	<ul style="list-style-type: none"> <li>- Kenilworth doubling</li> </ul>	£100m - £170m
<b>Channel Tunnel classic route</b>	<ul style="list-style-type: none"> <li>- Gauge enhancement (up to W12)</li> </ul>	£50m - £80m
<b>Cross-London, and Essex Thameside</b>	<ul style="list-style-type: none"> <li>- Ripple Lane Nodal Yard</li> <li>- Thameside Level Crossings (capacity)</li> </ul>	<ul style="list-style-type: none"> <li>£10m - £15m</li> <li>£30m – £40m</li> </ul>
<b>Northern Ports &amp; Trans Pennine</b>	<ul style="list-style-type: none"> <li>- Trans Pennine gauge enhancement (up to W12)</li> <li>- New loop between Up Decoy and South Yorkshire Joint Line</li> <li>- Trans Pennine freight capacity</li> </ul>	<ul style="list-style-type: none"> <li>£100 - £200m</li> <li>£5m-£10m</li> <li>tbc</li> </ul>
<b>Total</b>		c.£0.6bn - £1bn







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for Transport

# Rail Freight Strategy

## Office of Rail and Road - Freight Customers





## The case for Government support for the rail freight industry is articulated in its Rail Freight Strategy

- Government's Rail Freight Strategy was published in September 2016
- Government policy: support modal shift and rail freight growth to mitigate the negative external impacts of road haulage.
- Support for rail freight based on productivity gains, reduced road congestion and environmental benefits.
- Sets out vision for how rail freight can continue to grow, collaborate, and innovate to help relieve pressure on the road network.
- Identifies intermodal, construction and automotive sectors as key growth areas





# The strategy identifies four priority areas where action by Government & industry could help rail freight achieve its potential

## Innovation and skills

- ✓ BEIS' Clean Growth Strategy to look at freight into cities with zero emission last mile delivery
- ✓ Innovate UK funded Accelerating Rail Innovation project into short freight 'track train'

## Track access charging

- ✓ SofS issued guidance to ORR to consider affordability of charges, recognising benefits of rail freight
- ✓ ORR's Final Determination issued cap and phasing-in of VUC for rail freight

## Network Capacity

- ✓ HLOS & SOFA include funding for strategic freight network
- ✓ NR's 'FNPO' established
- ✓ Investment in digital ETCS freight cab fitment
- ✓ Freight in franchising workstream

## Telling the story of rail freight

- ✓ RDG published 'Rail Freight: Working for Britain' in summer 2018
- ✓ DfT Rail Freight video



Department for Transport

# We meet regularly with our stakeholders to identify the strategic challenges facing the rail freight industry

## Trade Associations



Rail Delivery Group



## Infrastructure Manager



## Customers



## Freight Operating Companies



## Government and Devolved Administrations



## Economic and safety regulator



## Regional Transport Bodies



## Direct Rail Services





# DfT is working on many live issues to support rail freight – many require collaboration with industry and across government

Freight enhancement schemes in CP6

Continuation of red diesel rebate

Continuation of MSRS

Development of Strategic Capacity

Better understanding of economic value of rail freight

HS2

Cross-modal approach to freight policy

Ensuring freight has appropriate protections in any new model

Clarifying what capacity is available for freight growth

Working with industry on decarbonisation and air quality

Stable and affordable track access charging regime

Ensuring freight is properly represented in the Rail Review

Highlighting the benefits of rail freight to OGDs

A good Brexit outcome for Channel Tunnel rail freight

Ensuring industry behaviours facilitate rail freight growth



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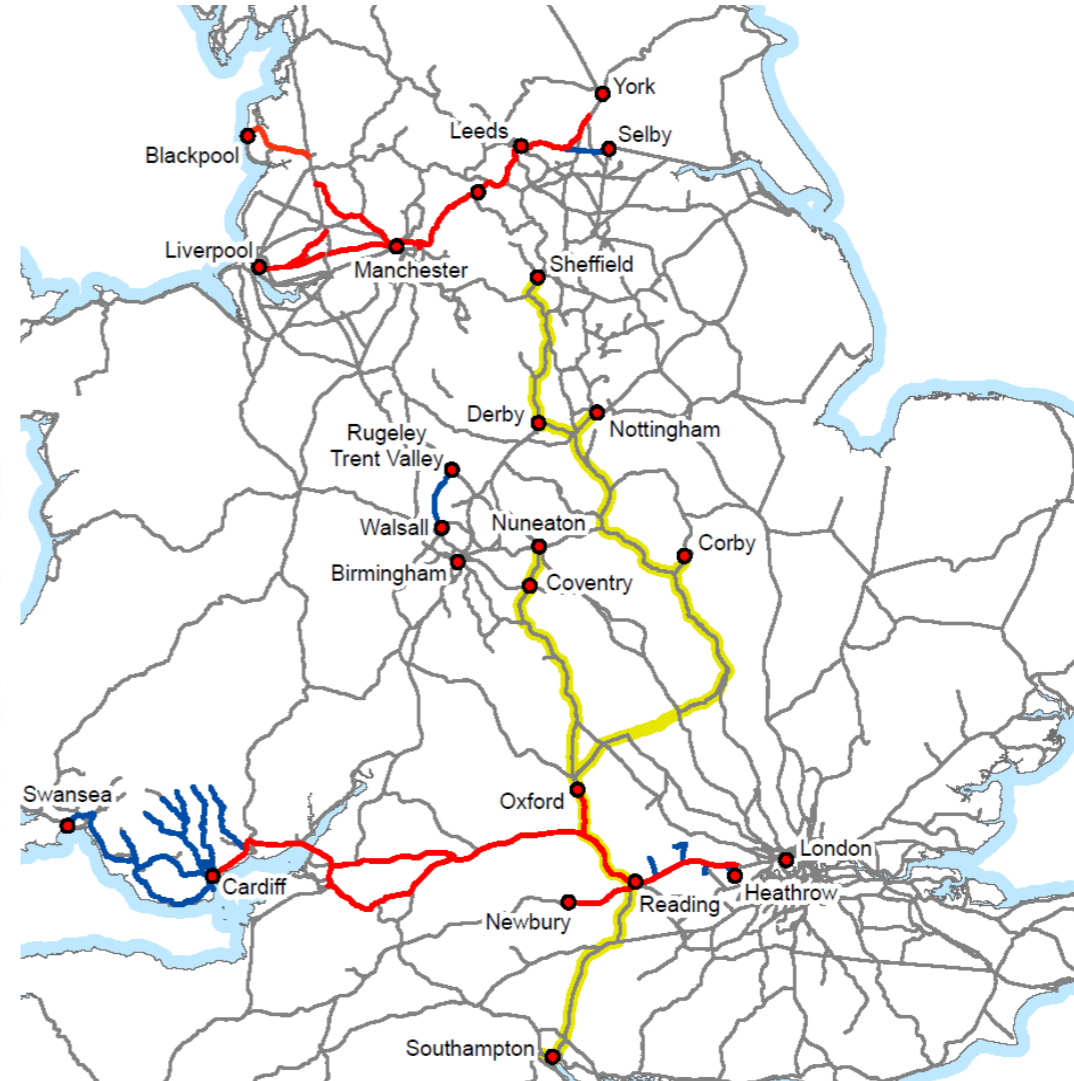
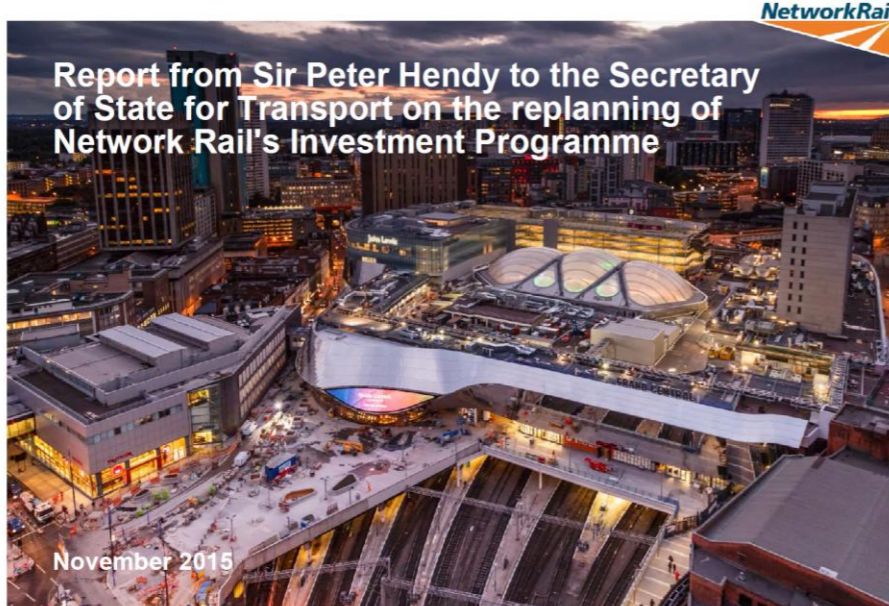
New Approach to Enhancements  
Rail Network Enhancements Pipeline

James Conway  
Programme Director,  
London and South East



Department  
for Transport

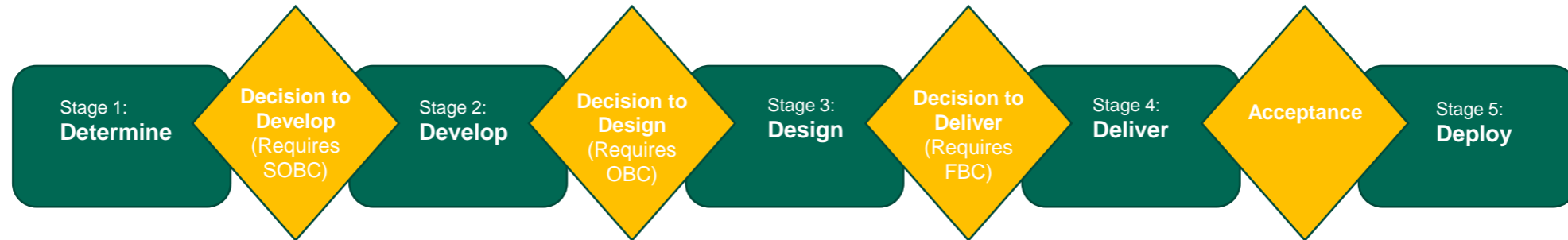
# Rail Enhancements Lessons from Control Period 5





# Rail Network Enhancements Pipeline

## Engaging with the pipeline



- Only commit to the next stage of the pipeline
- Each decision taken will be informed by a business case
- Entry into the pipeline does not guarantee it will be delivered

More information at:

<https://www.gov.uk/government/publications/rail-network-enhancements-pipeline>



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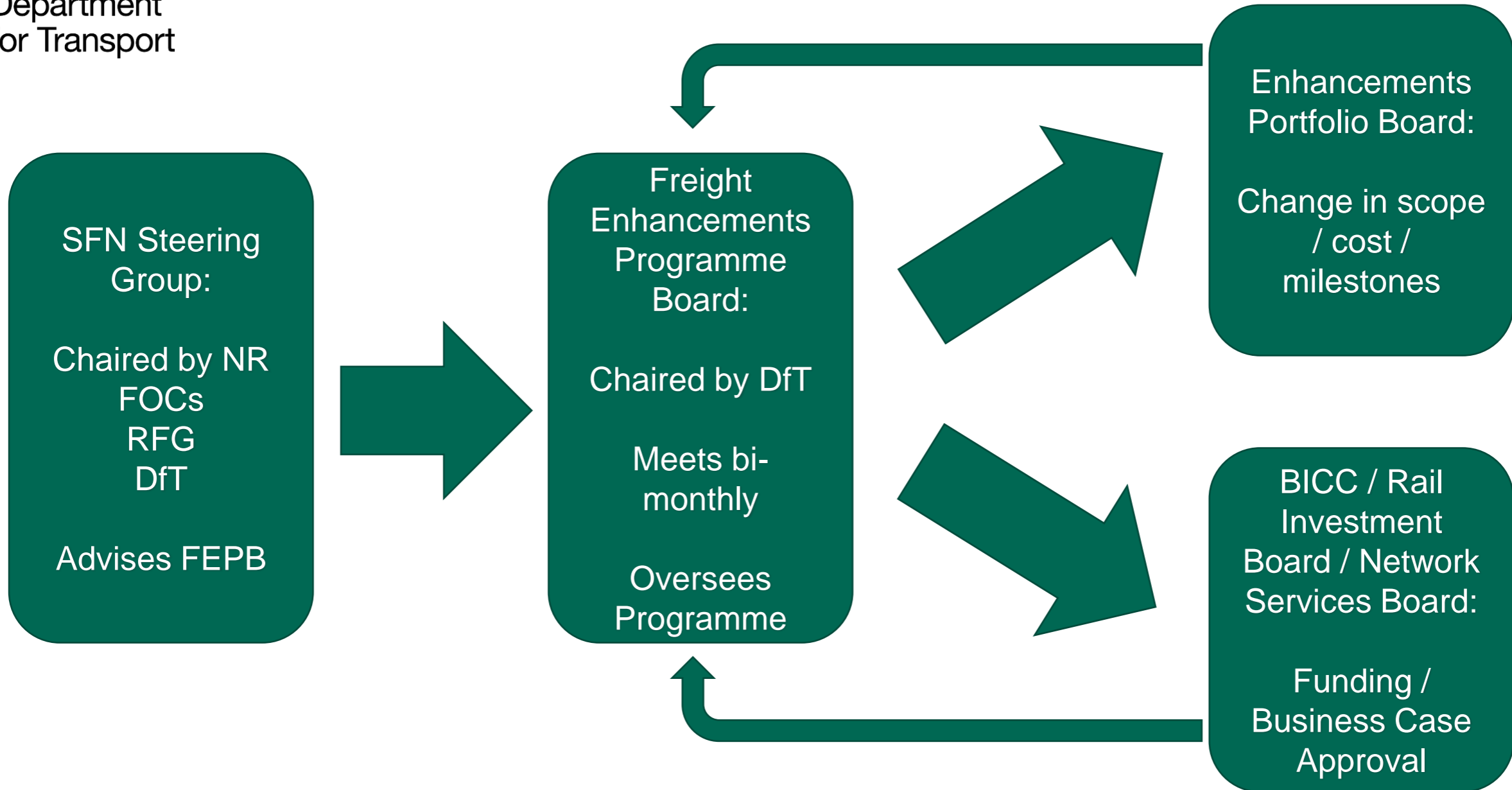
## Delivering Enhancements in CP6

Dave Whyte  
Planning & Investment Manager,  
West Midlands, Chiltern and Freight



## Enhancements delivered or in delivery through the SFN Fund in CP5

- Felixstowe Branch Capacity Enhancement
- Southampton Freight Train Lengthening
- Buxton Peak Forest
- Ripple Lane Nodal Yard
- Gauge Clearance (Humber / Yorkshire to Midlands; ECML North)
- Enhanced capacity / gauge to ports (Liverpool / Thameshaven / Immingham)
- Business case development for potential CP6 enhancements



*ORR protects the interests of rail and road users, improving the safety, value and performance of railways and roads today and in the future*



# Freight customer event

ORR regulation

21 November 2018

Gordon Herbert, Patrick Talbot,  
Lisa Thurston, Jeremy Bohl.

*ORR protects the interests of rail and road users, improving the safety, value and performance of railways and roads today and in the future*



**ORR**

**Economic and safety  
regulation**

# ORR overview

- Our railway health, safety, economic and road functions overall are driven by UK and EU legislation and on the basis that we are also accountable to laws passed by the Scottish government.
- As a regulator we are accountable to Parliaments and the public to:
  - Protect the people who work on, use, or interact with the railway. This is both to ensure continuous improvement in health and safety and, on the economic side, to temper the monopoly power of Network Rail.
  - Ensure fair access to a rail network and other infrastructure which are becoming increasingly congested.
  - Ensure Highways England carries out its investment programme on England's strategic road network effectively. It is our job to report on Highways England's progress in delivering this investment, on budget and to time.
  - Protect the interests of future users by working with the industry and with funders as they develop the network of tomorrow.

# Freight customers

- Freight customers are those with a direct interest in rail freight, including purchasers of services and their representative bodies, but not the operators of the trains.
- ORR wants to better understand the interests of rail freight customers, balancing them with the interests of other users and with funders of the rail network.
- Webpage, feedback and ideas
  - <http://orr.gov.uk/about-orr/who-we-work-with/industry-organisations/freight-customers>.
- Freight customer panel
  - “help to ensure that our policies and regulatory decisions take into account the commercial environment that freight customers work within”.
  - ORR’s panel is made up of freight customers who represent a wide area of expertise and interest from across the rail freight community.
- Specific initiatives
  - Freight customer track access contracts.

*ORR protects the interests of rail and road users, improving the safety, value and performance of railways and roads today and in the future*



# Access

## **Gordon Herbert**

Track access manager (freight)  
Access and Licensing Team, ORR

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[Track.access@orr.gsi.gov.uk](mailto:Track.access@orr.gsi.gov.uk)

# Access: framework

- Railways Act, Access and Management Regulations
- Track access
  - NR contracts
  - New/other IMs
- Facility access
  - Contracts
  - Appeals
- Connection contracts
- ORR guidance and advice
- Open, transparent, efficient and competitive market.

# Access: current issues

## ■ Service facility transparency

- AMRs and Implementing Regulation on Service Facilities
- NR network statement and other IMs – NR templates
  - “The Common Template” is available on [RailNetEurope’s website](#).
  - [networkstatement@networkrail.co.uk](mailto:networkstatement@networkrail.co.uk)

## ■ Model clauses FACs

## ■ New networks/other than NR

## ■ Changing markets and access rights

- Access rights framework, model clauses
- Enhancements, Capacity, Investment

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# ORR's approach to competition policy in the rail freight industry

Jeremy Bohl

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November 2018

# Agenda

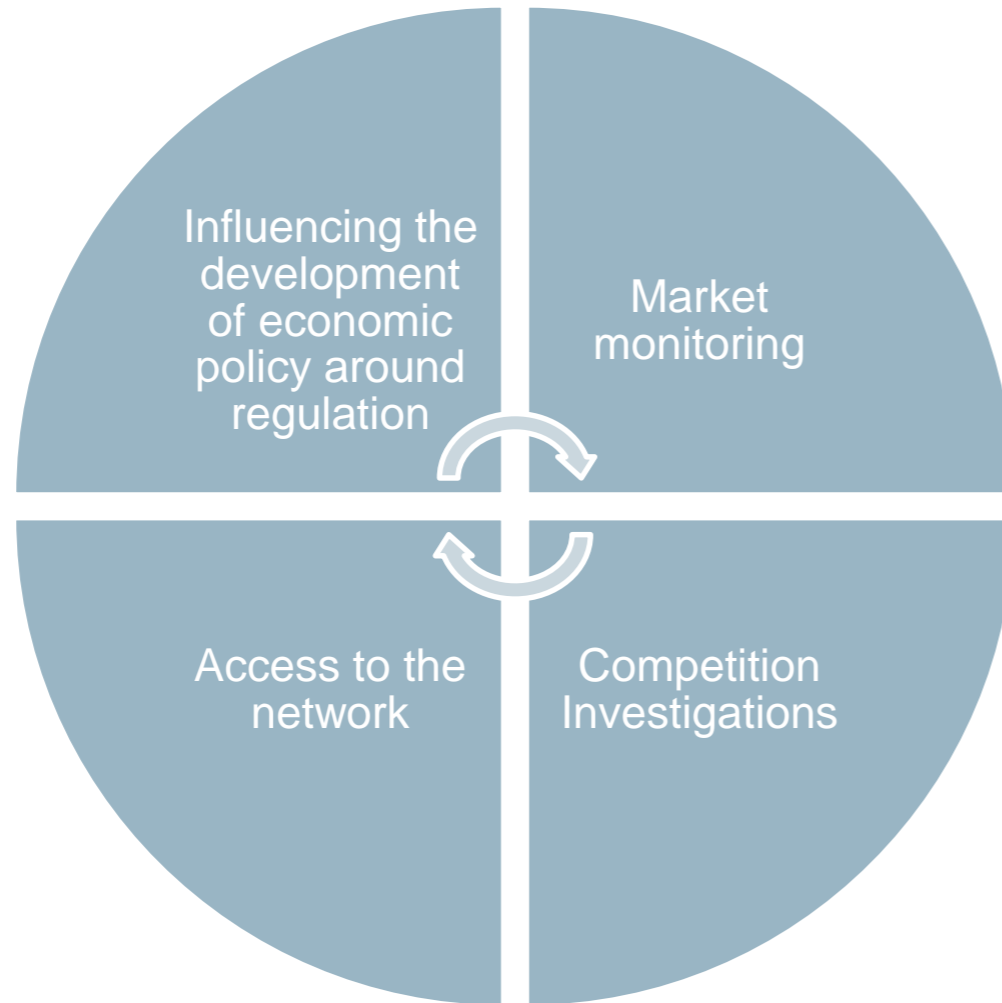
- ORR's competition role
- Competition CA98 investigation: Intermodal (deep sea container) case
- Access issue: Scope for potential application of the A&M Regs
- What you can do

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## ORR's competition role

# ORR's competition role



We use competition policy (and where necessary our powers) to optimise competitiveness and create conditions for innovation, efficiency and growth

# Competition powers

## Competition Act 1998 (CA98)

- Chapter 1/ Article 101 TFEU – **agreements** between undertakings (business) or decisions of associations of undertakings (e.g. trade associations), and concerted practices which have, as their object or effect, the prevention, restriction or distortion of competition within the United Kingdom (or any part of it) and which may affect trade in the United Kingdom
- Chapter 2/ Article 102 TFEU - conduct by one or more undertakings amounting to the **abuse of a dominant position** in a market which may affect trade within the United Kingdom. This is known as the Chapter II Prohibition

## Railways (Access, Management and Licensing of Railway Undertakings) Regulations 2016 (A&M Regs)

- Regulation 34 provides ORR with the power to issue directions to correct discrimination against applicants for access to the rail network, market distortion; or undesirable developments in relation to the competitive situation in the rail services markets

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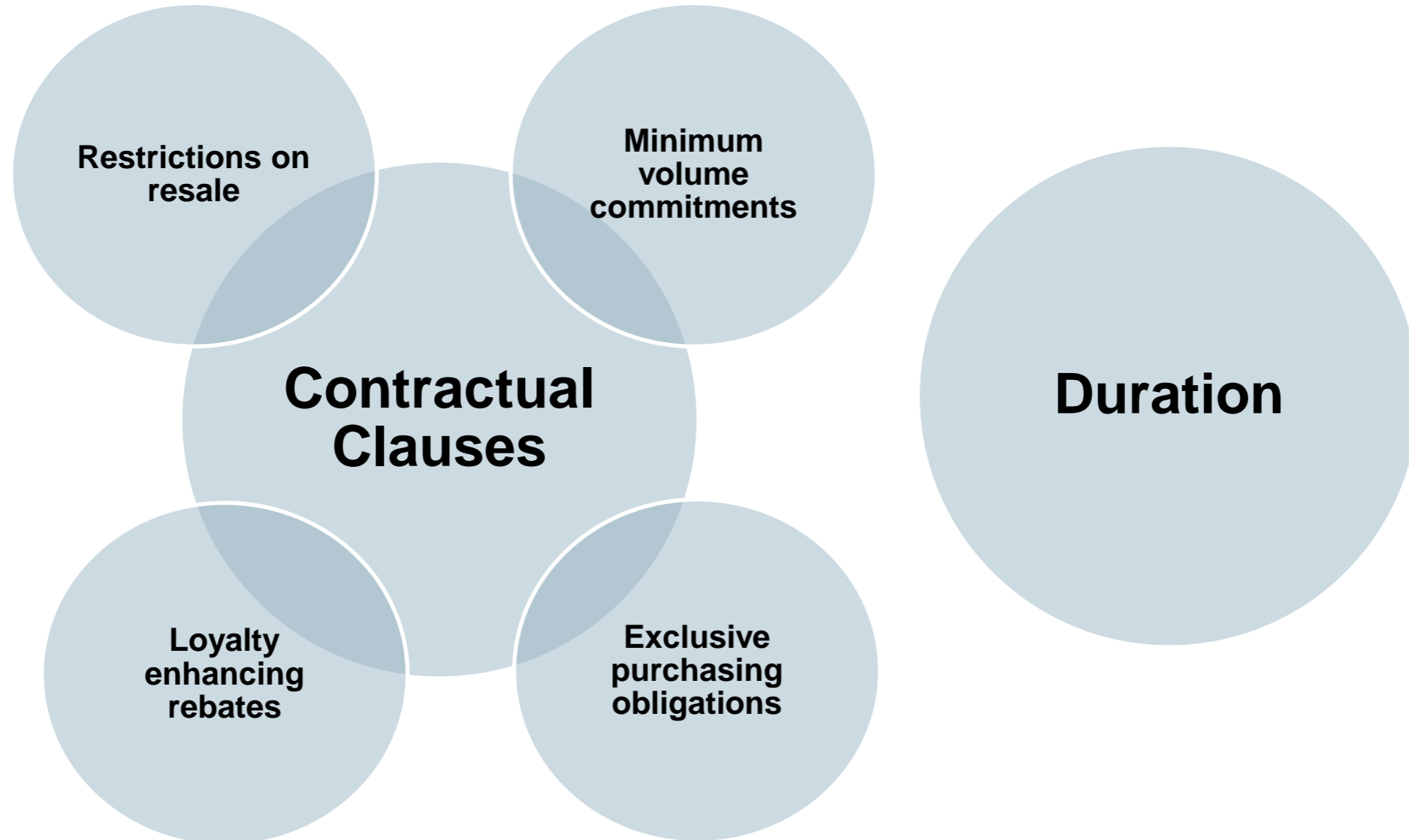


## **Competition CA98 investigation: Intermodal (deep sea container) case**

# Overview

- CA98 opened in August 2014
- Suspected **abuse of a dominant position** in the provision of deep sea container rail transport services between ports and key inland destinations in Great Britain.
- ORR accepted commitments in December 2015. These will remain in force until 31 March 2019

# ORR's competition concerns



# Commitments – some examples

## Outright/express exclusivity

- **Outright end to practice**
- Not enter any contracts which require customers to purchase exclusively from a single FOC

## Restrictions on resale

- **Outright end to practice**
- Not enter into any contracts which place any restrictions or conditions on re-sale.

## Retroactive rebates

- **Outright end to practice.**
- Remove all retroactive rebates in place with customers on the routes specified in the commitments.

## Minimum volume commitments

- **Mitigation**
- Provide customers with rights to reduce their minimum volume commitments after a set period

## Duration

- **Outright end to practice**
- Remove evergreen clauses. Not enter any contracts with a duration of more than 5 years.

# Impact

- Preliminary data suggests a positive impact on competition:
  - Ability for customers to choose shorter more flexible contracts
  - As contracts are open to competition on an annual basis, customers have more ability to choose the FOC with the most competitive offering
  - Indications of more rivalry between FOCs
  
- However, there are still issues with gaining access to the network

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## **Access issue: Potential application of the A&M Regs**

# Complaint regarding access to rail facilities

- Key concern was the potential that the operator of the facility was preventing a customer of a freight operator from operating at the facility and expanding its business
- ORR considered all options including issuing a direction under the A&M regs
- ORR's policy objective was to ensure fair competition and market conditions for growth
- Ultimately resolved issue without the use of regulatory or competition powers

# What you can do

- If you experience an issue which could be anti-competitive **contact us:**

<http://orr.gov.uk/rail/promoting-competition/how-to-report-a-breach-of-competition-law>

- Examples of anti-competitive conduct:
  - Issues with getting access to rail facilities
  - Price fixing between freight operators
  - Markets being split by geography or customer by freight operators (customer sharing)
  - Exclusivity requirements by freight operators

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OFFICE OF RAIL AND ROAD



# Safety Matters

Patrick Talbot

# Health and Safety Regulation

## ■ Safety Regulator for Britain's Railways

- Responsible for all railways (mainline, metros, heritage, trams)
- Certification body (safety certificate/authorisation)
- Enforcing authority for health and safety legislation
- Prosecuting authority



# What about off- network sites?

- Enforcing Authority is most likely either ORR or HSE
  - Health and Safety (Enforcing Authority for Railways and Other Guided Transport Systems) Regulations 2006 (as amended) (EARR)
  - Clarification in the MoUs between ORR, HSE and ONR
  - Enforcing Authority may vary depending on the nature of the activity carried out on site
  - Usually exempt from the requirements of R



iPort Rail

# Freight Safety Issues

## ■ Unauthorised access

## ■ Freight derailment

- Interconnected factors (infrastructure condition, vehicle maintenance and loading) lead to derailment
- Industry Cross Industry Group (XIFDWG)
  - Collaborative approach to solving a system problem
  - Representatives from Network Rail, FOCs, Customers, Wagon owners, consultants

# Off- Network Infrastructure

- Two questions...
- How can railway safety performance be improved and maintained?
- How can guidance, best practice and learning from incidents be shared?

- Questions/ queries/ more information:
- Patrick Talbot, HM Principal Inspector of Railways
  - [patrick.talbot@orr.gov.uk](mailto:patrick.talbot@orr.gov.uk)