RDG PR18 working group: route-level regulation, charges and incentives

Note of meeting held on 14 08 2017 at RDG's offices

Attendees: Lynn Armstrong (ORR), Richard Clarke (DB), Bill Davidson (RDG, Chair), Lindsay Durham (Freightliner), Russell Evans (First Group), Peter Graham (Freightliner), Jonathan Haskins (Network Rail), Chris Hemsley (ORR), Martin Leggett (ORR), Nicola Machado (ORR), Richard McClean (Arriva), Dan Moore (DfT), Mark Morris (ORR), Steve Price (RDG), Peter Swattridge (Network Rail), John Thomas (RDG)

Agenda Item	Lead
1. RDG response to ORR's paper on Network Rail's renewals efficiency	**RDG**
2. RDG response to ORR's consultation on the overall framework for regulating Network Rail	**ORR**
3. Discussion on 'route-level efficiency benefits sharing' (REBs) mechanisms for CP6	**ORR**

1. RDG response to ORR's paper on Network Rail's renewals efficiency

1. The Chair led a discussion to begin producing RDG's response.

2. One of the causes of inefficiency identified by ORR was the scope of renewals increasing in order to achieve marginal improvements in the network's capability, given the lack of funding available to realise these benefits from other sources. The working group noted that these are not inefficiencies per se, and they probably represent the most cost effective way to improve the network, but are rather a matter of accounting. However, they contribute to a wider issue because these improvements are being approved on a project rather than a portfolio basis. Although each individual improvement may represent good value for money, at a portfolio level it means renewals elsewhere have to be deferred in order to remain within funding envelopes.

3. Third party funding could be a potential way to address this in CP6, or alternatively Network Rail should make allowance in its initial plans for such improvement opportunities (which, on a case by case basis, are likely to have strong business cases), or a ring fenced fund should be available.

4. Operators stressed that they have relatively little impact on the total cost of renewals, and that they are not experts in infrastructure delivery. Access planning is their main impact on renewals efficiency. In particularly, operators stated that they were unable

to accommodate some short-term requests for access changes for operational reasons or due to the impacts on passengers. Freight operators concurred, and further noted that there were some cases where they would be able to accommodate access requests (e.g. use diversionary routes), but would require greater compensation than allowed under the Schedule 4 regime for this to be viable.

5. Operators noted that there were often good reasons for last minute disruption, for instance emergency maintenance requirements that were unforeseeable. Sometimes though, last minute cancellations occurred because issues with the design or site conditions were only realised late in the project. The long timescales associated with access planning mean that Network Rail has to book possessions before it has completed its engineering designs, and operators noted that the high discount factors in Schedule 4 incentivise this.

6. Freight, in their role as a supplier to Network Rail, noted that the slow ramp up of volumes at the start of CP5 had led to challenges in the industry, and that uncertain work banks were a source of inefficiency in the supply chain. The fixed debt ceiling, wariness over having engineering overruns and a reluctance to risk having temporary speed restrictions were also proposed as reasons why Network Rail had cut back its volumes (thus increasing unit rates for remaining projects).

2. RDG response to ORR’s consultation on the overall framework for regulating Network Rail

7. Network Rail were broadly supportive of the consultation’s contents, although they had concerns about the two specific measures proposed to have a regulatory floor. It was felt that the performance measure was not purely within Network Rail’s control, and that the asset life measure would not be an effective incentive as it was very lagging. Network Rail believed they should conduct the assessment of stakeholder engagement, and that the current format of the Monitors should be reviewed to be more concise and focus more on recognising good performance.

8. Operators were nervous about the implication that they should agree performance targets with Network Rail, where these targets may not be aligned with their franchise requirements. Operators could envisage a scenario where there had been good engagement with Network Rail at a local level and a sensible plan (with interim targets) had been agreed, but operators felt they still needed recourse to escalate issues (either to DfT or the ORR) if Network Rail was not delivering its required performance. They felt they may be in a position to ‘agree plans’, but not to ‘accept targets’. Or alternatively, there needed to be more effective mechanisms baked into franchise agreements to facilitate change control over time in response to circumstances.

9. The challenge of creating a scorecard which was both sufficiently broad to be balanced (in terms of reflecting all of a routes activity areas), but also maintain the level of detail so that it is actually useful to operators, was discussed. The use of different 'levels' of scorecards was felt to have some value here, for instance customer scorecards would be relevant to specific operators, but route and national scorecards may be of more interest to ORR and the DfT.

10. The group felt that the core message of increasing stakeholder engagement in CP6 came through clearly, and were supportive of this as a goal. The group was supportive of ORR setting out some high level principles of stakeholder engagement, but not of it specifying mechanisms by which to achieve this, feeling this was best left to Network Rail and operators to agree.

11. Operators disagreed with the logic that they may have less interest in engagement towards the end of franchises. It was noted that in any case, franchisees had to get permission from the franchise authority to make any agreements in the latter stages of a franchise. There is a high degree of staff continuity between franchises in any case, so working level engagement is unchanged. If anything, operators felt that Network Rail engaged with them less towards the end of a franchise, mainly to avoid any accusations of impartiality.

12. Freight operators were keen for disaggregated reporting of freight delivery metrics by route, and Network Rail were keen to give freight the same status as passenger performance i.e. if one has a floor then they both should.

3. Discussion on 'route-level efficiency benefits sharing' (REBS) mechanisms for CP6

13. Network Rail presented a brief slide on REBS. This outlined its view that while REBS was well intentioned in attempting to encourage greater collaboration, there was a sense that it had not been as effective as envisaged. Furthermore, the mechanisms described in the overall framework consultation around route level devolution and stronger stakeholder engagement would make REBs less relevant.

14. As an alternative to REBS, which sees operators receiving or making payments on the basis of aggregate performance against a financial benchmark at route level, Network Rail offered support for a more localised and bespoke arrangement which would allow Network Rail and operators to work together to deliver efficiency on the network on a case by case basis. For example, if an operator believed it could undertake an activity to save Network Rail money, there could be a bilateral agreement to make this collaboration mutually beneficial. It was noted that Freight and National Passenger Operator route had already had some discussions with customers to explore how collaborative working could best be facilitated.

15. Operators were supportive of this approach as, whilst there were likely to be a number of opportunities that could realise efficiencies, they felt limited in their ability to influence Network Rail's total costs on the scale required by REBS. They noted that an alternative approach could therefore promote the identification and delivery of mutually beneficial collaboration.

16. ORR noted that this fell within the options previously shared with RDG and that we continued work in this area. They noted they would recirculate the slides presented at the April RDG meeting and that there would be more engagement on this going forward.

4. Next meetings

17. On 4 September, the working group will discuss in more depth its response to the ORR's consultations on renewals efficiency and the overall framework. On 18 September, the group plans to discuss the variable usage charge, and possibly receive an update on the Schedule 8 recalibration work.