

Second parallel sessions
**C: Accountability, monitoring and
delivery**

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OFFICE OF RAIL REGULATION

Summary

- Framework for Network Rail's accountability
- How can I influence what Network Rail plans to do?
- How do I know what it will deliver?
- How can I make sure it delivers?

Framework for Network Rail's accountability

- Contractual commitments
- Requirements in legislation – health and safety, environment, EU etc
- Competition law
- Incentives
- Outputs we set in a periodic review
- Licence obligations
- Our enforcement policies

How can operators influence what Network Rail plans to do?

- Network Rail consulted on its strategic business plan
- We are now consulting on PR08 draft determinations
- Over coming months operators should discuss requirements and priorities with Network Rail as it prepares its 2009 business plan - the ***delivery plan*** for CP4
- We will consult on the ***delivery plan*** when we receive it in spring 2009
- Through CP4 all parties should keep plans under review as circumstances change and new opportunities are identified

How do I know what Network Rail will deliver?

- We have announced in our draft determinations of the PR08 the outputs Network Rail must deliver
- There are two levels of these –
 - Top level regulated outputs
 - Disaggregated outputs which form reasonable requirements under Network Rail's licence
- These are in addition to Network Rail's other obligations, including those under its network licence, which we propose to strengthen
- ... and the ***delivery plan*** will define a further range of commitments at a disaggregate level, which must be consistent with the PR08 determinations

Network Rail's CP4 delivery plan (the 2009 Business Plan)

- Will cover April 2009 to March 2014, acting as the main reference document for CP4 (2009-2014)
- Will include the top level outputs set in ORR's October 2008 final determinations
- Network Rail to set out plans in reasonable detail - for different parts of the network - how it will deliver the top level outputs
- In defined areas, the plans will have the status of reasonable requirements
- Clearly identified **aspirations** will not form reasonable requirements
- Draft notice in draft determinations
- Regulated change process

Regulated change process

- Network Rail may revise the *delivery plan*
 - If circumstances change and needs are different
 - If better ways are found to deliver outputs
 - Including in response to customer initiatives
- It should seek to agree changes with those affected
- It will have to notify us of changes to commitments
- It will need our approval for changes to capacity schemes (to assure continued compliance with HLOS)
- We will investigate any complaint about changes to other 'reasonable requirements'

The network licence

- 25 current licence conditions
- We have reviewed the network licence –
 - To strengthen it
 - To make it more purposive
 - To reflect PR08 and our approach to enforcement
 - To improve clarity by restructuring it
 - To remove unnecessary or unhelpful obligations

Structure of licence

- Network management
 - Timetable information
- Restrictions on activities
- Dealings with third parties
- Information requirements
- Corporate matters
- Standard industry obligations

How can operators make sure Network Rail delivers?

- ORR will monitor 'top-level' and HLOS outputs and certain disaggregated outputs - reported through Network Rail Monitor and Annual Assessment
- Operators are in close contact with Network Rail and can monitor local/disaggregate commitments
- Use industry processes to resolve problems. If necessary ORR can act to ensure commitments are delivered – through influence, facilitation or enforcement action (not just about penalties)
- The proposed changes to the licence make sure we can intervene where the impact is greatest

What should our approach to monitoring be?

- What should we monitor?
 - Regulated outputs
 - Precursors
 - Diagnostics
 - Sustainability measures e.g. asset management
 - Financial measures e.g. efficiency
- How frequently should we monitor?
- What should determine the frequency?
- What should our monitoring stance be in the industry?
 - ORR taking responsibility v industry parties taking ownership

Our monitoring publications – are they fit for purpose?

- Quarterly Network Rail monitor
- Executive brief of the Network Rail monitor
- Annual assessment of Network Rail
- Do we need to change our publications?
 - Frequency/timing
 - Format
 - Content
 - Detail

Enforcement – process of escalation

- Discussion
- Correspondence
- Publication
- Formal investigation
- Choices – licence enforcement v competition law v health and safety law
- Enforcement order or acceptance of recovery plan
- Financial penalties