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Richard Owen
Office of Rail Regulation
One Kemble Street
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3 February 2012

Dear Richard,

Periodic Review 2013 – Incentives Consultation

Thank you for the opportunity to comment on the Incentives consultation document. Outlined below are some high level comments, that address the specific areas and issues that ORR raises in the consultation document.

The ORR has a responsibility to make sure that Network Rail's delivery of its regulatory outputs is facilitated, monitored and enforced, recognising that train operators compete both for and within the market, which drives efficiency through the operation of competitive discipline.

The Periodic Review process remains a key element in supporting reform that will deliver a cost-effective outcome, but in our view the emphasis of the ORR must continue to focus on Network Rail's outputs, directing its engagement to facilitate industry parties working together.

For franchised train operators, outcomes are largely specified at a high level through the contractual relationship that funders have with franchised operators. They specify the level, quality and priorities for train service provision.

Northern Rail believes that the industry should be working towards incentivising the delivery of outcomes that customer's, funders and the wider society values. The outcomes that are being monitored in CP4 should continue to be monitored during the next control period.

Northern Rail supports an approach where Network Rail is incentivised to meet national targets for the delivery of key outputs. Northern Rail believes that targets should also be disaggregated locally and monitored on a TOC by TOC basis to ensure that Network Rail does not achieve national targets by balancing over delivery to one operator at the expense of under delivery to another. Local targets would also dovetail with the newly devolved route structure that Network Rail is currently implementing, and this give greater accountability and ownership of customer specific outputs at a more local level.

Route Based Efficiency Sharing

Clear governance arrangements and regulatory principles must be established that provide confidence to all parties that there is clarity as to the scope, definition and distribution of efficiency shares. The ORR must be able to demonstrate to the industry that it has the resource and competency to monitor and enforce efficiency sharing, and that the arrangements that are implemented do not disadvantage train operators who are not closely-aligned to one specific NR route or where there are specific Alliancing arrangements agreed.

Schedule 4 and 8

Northern Rail believes that the current mechanisms that are in place are on the whole fit for purpose, and should remain as liquidated sums regimes. Northern Rail has concerns, however, in relation to the thresholds that operators are required to trigger in order to claim under the Sustained Planned Disruption provision in Schedule 4. Northern Rail would welcome a review of these triggers, as we face a significant amount of disruption in the coming years due to various enhancements projects in the North of England that sees our train services severely disrupted.

It would be prudent to revisit the payments rates in readiness for the next control period to ensure the compensation payments are set at the correct level. Northern Rail feels it would be inappropriate to not fully compensate train operators through the re-evaluation of revised payment rates. This would simply transfer the risk to operators and not provide the correct signals and incentives for Network Rail. If the payment rates are set at the correct level then instances of over payment of Schedule 4 compensation should not occur.

Access Charges

Bespoke arrangements for access charges are welcomed by Northern Rail as this will incentivise both parties and allow greater flexibility in order to achieve the most efficient industry outcome. ORR refers to establishing a set of principles that bespoke arrangements would need to comply with. Northern Rail feels that there is merit in setting boundaries (in the form of overarching principles) for operators and Network Rail to work within to ensure third parties are not disadvantaged in anyway, and the benefits are realised in a non discriminatory manner.

Despite our support for bespoke access charges Northern Rail fears that the application of bespoke arrangements is likely to be limited to areas either where there is significant investment taking place or where industry structures have changed.

Whilst this issue is not raised specifically in this consultation, Northern Rail supports in principal the introduction of a variable track usage charge which is geographically disaggregated, as this would then align with devolved route structures within Network Rail.

Network Rail's devolved route structure should provide operators with greater transparency, which will facilitate regional efficiencies and support increased route level accountability and decision making. It is vital that ORR challenges Network Rail to set realistic yet challenging national and local targets.

Capacity Utilisation Incentives

The management of network capacity is critical to delivering a cost-effective industry, but at the same time operators look for clarity and simplicity in the structure of charging

It is important to Northern Rail that the volume incentive remains, and Network Rail should be doing all it can to accommodate additional services onto its Network. Consideration, however, needs to be given to the potential performance risk when accommodating extra services onto the network. Northern Rail would support a disaggregation of this incentive down to Network Rail route level (due to the varied service patterns on different parts of the routes).

Northern Rail supports the proposal by ORR to revisit and recalibrate the capacity charge regime for the next control period. However, we would not support the addition of further complexity to this area by the introduction of charging categories such as reservation charge.

If you require any further clarification of on the points raised in this letter please feel free to contact me.

Yours sincerely

Helen Cavanagh
Track Access Manager