

# 2014 High Speed 1 Periodic Review (PR14)



OFFICE OF RAIL REGULATION

## ORR approach to PR14

June 2013



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# Acronyms and abbreviations

5YAMS – 5 Year Asset Management Statement

The Act – The Railways Act 1993

CP2 – Control Period 2

DAB – Delay Attribution Board

DAG – Delay Attribution Guide

DfT – Department for Transport

FOC – Freight Operating Company

the HS1 network – the physical HS1 infrastructure

HS1 Ltd – HS1 Limited

IM – Infrastructure Manager

IRC – Investment Recovery Charge

NRIL – Network Rail Infrastructure Limited

NR(HS) – Network Rail (High Speed) Limited

OA – Operator Agreement (between HS1 Ltd and NR(HS))

OMRC – Operation, Maintenance and Renewal Charge

ORR – Office of Rail Regulation

PR13 – The 2013 Periodic Review of NRIL

PR14 – The 2014 Periodic Review of HS1 Ltd

The Regulations – The Railways Infrastructure (Access and Management) Regulations 2005

SoS – British Secretary of State for Transport

TOC – Train Operating Company

# Executive summary

This document sets out the approach ORR will take to the 2014 periodic review of HS1 (“PR14”). It sets out ORR’s conclusions reached as a result of our PR14 [initial consultation](#) document and the responses we received to the questions asked in that document, both through stakeholder sessions and formal written responses.

Broadly, ORR’s approach is in line with the proposals made in the initial consultation document. This is largely due to the fact that the representations we received from respondents were supportive of the proposals ORR made, and consistent with views we had heard at previous stakeholder sessions and workshops. Where respondents have raised novel or differing viewpoints, we have addressed these in this document. Equally, for less contentious or uncontentious issues, our conclusions are confirmed here. However, if readers of this document require further clarity or explanation, they should contact ORR using the details listed at paragraph 1.7 of this document.

The document takes each question ORR asked in turn, summarising the responses which we received, and setting out our response. This document also addresses various additional comments made by respondents. Again, readers are invited to contact ORR if they require further clarification or explanation on any of these points.

For reference purposes, this document also sets out the high level timetable and key milestones for the completion of the PR14 project, which are slightly updated from those which appeared in ORR’s initial consultation document.

ORR wishes to reiterate the importance of stakeholder engagement with the PR14 process. HS1 Ltd has adopted an open, transparent and cooperative approach to stakeholder engagement, both with its customers and with ORR as regulator. We encourage all stakeholders to continue to engage with HS1 Ltd on a similar basis for the duration of PR14 and beyond.

**OFFICE OF RAIL REGULATION**  
**JUNE 2013**

# 1. Introduction

## Introduction

1.1 This chapter sets out some brief background information, the purpose and structure of this conclusions document, and ways to get in touch and engage with the PR14 process.

## Background

1.2 In February 2013, we launched our [initial consultation](#) on the Periodic Review of HS1 Ltd (“PR14”). In order that essential background information is not missed, whilst reading this document, the reader will find it helpful to cross-refer throughout to our initial consultation document. The initial consultation document contains a significant amount of background information on PR14, and periodic reviews for HS1 more generally, which is not repeated here for reasons of brevity.

1.3 This document represents the conclusions we have reached on the questions raised in our initial consultation, and takes into account the views of stakeholders both through their formal, written responses, and through views shared at the stakeholder workshop hosted by ORR on 13 March 2013. A [note of the stakeholder workshop](#) can be found on ORR’s dedicated [PR14 webpage](#).

1.4 [Annex A](#) contains a list of respondents to our consultation, as well as hyperlinks to those responses.

## Structure of this document

1.5 This document is structured as follows:

- (a) [Chapter 2](#) sets out the responses ORR received to the questions in its initial consultation document, and ORR’s views and conclusions on these responses. Chapter 2 also sets out ORR’s conclusions on other areas of the initial consultation not covered by a specific question in the document.
- (b) [Chapter 3](#) contains the high-level timetable and key milestones for PR14.
- (c) [Annex A](#) contains a list of respondents, the date of their response and a hyperlink to an electronic copy of their full response.

## Your involvement with PR14

1.6 ORR continues to encourage all stakeholders and interested parties to engage fully with the PR14 process. If parties do have any particular concerns or comments, they should discuss these with HS1 Ltd in

the first instance. ORR wishes to reiterate its support of the open and transparent approach adopted by HS1 Ltd during the course of PR14 so far, and encourages HS1 Ltd to continue in this manner.

1.7 ORR remains open to representations – provided that these have first been discussed with HS1 Ltd. Any correspondence on PR14 (or on the regulation of HS1 Ltd and the HS1 network more generally) should be sent to:

Paul Stone  
Office of Rail Regulation  
1 Kemble Street  
London  
WC2B 4AN  
Email: [paul.stone@orr.gsi.gov.uk](mailto:paul.stone@orr.gsi.gov.uk)  
Tel: 0207 282 0112

1.8 HS1 Ltd can be contacted using the details below:

Geoff Jones  
Head of Regulation  
HS1 Ltd  
12<sup>th</sup> Floor, One Euston Square  
40 Melton Street  
London  
NW1 2FD  
Email: [geoff.jones@highspeed1.co.uk](mailto:geoff.jones@highspeed1.co.uk)  
Tel: 0207 014 2724

## 2. Respondents' comments and ORR's conclusions

### Introduction

2.1 This chapter sets out the responses ORR received to the questions in its initial consultation document, and ORR's views and conclusions on these responses. Chapter 2 also sets out ORR's conclusions on other areas of the initial consultation not covered by a specific question in the document.

2.2 The consultation period closed on 16 April 2013. We received seven responses, all of which are available on the [PR14 consultation page](#) of our external website – please use the hyperlinks in [Annex A](#) to go directly to an organisation's response.

2.3 Under the terms of the [Concession Agreement](#), ORR has 60 business days (although we may take longer if we require it) from the closing date of the consultation to publish the process it intends to adopt for the conduct of PR14 – i.e. this document, giving a date of 9 July 2013 as the deadline for publication. In the interests of providing interested parties, particularly HS1 Ltd, with a greater degree of certainty over ORR's expectations for the PR14 process, we have endeavoured to publish this document as early as possible.

### Consultee responses and ORR conclusions

2.4 A common theme expressed by respondents was the importance of using PR14 to encourage further growth of freight and passenger markets on the HS1 network. ORR agrees that periodic reviews offer a regular opportunity to review efficiency, performance and cost, with a view to increasing efficiency and, where possible, driving down costs and encouraging growth.

2.5 It is clear that HS1 Ltd faces commercial incentives and imperatives to grow its business, and has consistently demonstrated a desire to do so. For its part, ORR remains committed to encouraging growth on the HS1 network, and approaches from any party with suggestions in this area are always welcome. The comments we have already received in this area are reflected in the responses and conclusions set out below.

2.6 We recognise that one of HS1 Ltd's measures of success is to avoid a situation where ORR decides that it cannot accept a submission agreed by HS1 Ltd and its customers because ORR must make changes to the submission to be seen to be adding value.

2.7 We wish to reassure HS1 Ltd – and all stakeholders – that what we see as an ideal outcome is a 5YAMS submission in December 2013 which is accepted the first time. It is not in ORR's interests, or the interests of HS1 Ltd and stakeholders, to create work by tinkering with a submission which is agreed by all

parties, and which satisfies the requirements of the Concession Agreement and the conclusions set out in this document.

2.8 As previously mentioned, ORR remains open to representations on the regulation of HS1 Ltd, PR14 and the HS1 network more generally. Both HS1 Ltd and ORR can be contacted using the details in chapter 1 of this document.

### **Question 1 – CP2 outputs**

2.9 ORR asked consultees (paragraph 2.16 of the initial consultation) whether they agreed that CP2 outputs should balance HS1 Ltd's vision, contractual requirements and customer views. ORR also asked whether there were any other relevant considerations.

#### *Respondents' views*

2.10 HS1 responded that its vision for CP2 was aligned to achieving what its customers wanted, which, in turn, would reflect the demands of their own customers (i.e. the end users of the railway). Whilst HS1 Ltd's primary source of information will be the operators using the HS1 network, HS1 Ltd has also said that it will supplement this TOC-provided information with other available data, such as the National Passenger Survey, and through collaboration with organisations such as Passenger Focus, to take account of the needs of end users.

2.11 Eurostar said that "customer views" should include the vision and objectives for CP2 of HS1 Ltd's customers. Eurostar added that it was not appropriate for HS1 Ltd to conduct an exercise in canvassing end users directly, as this may lead to duplication of work and an inconsistent interpretation of customer requirements. This view was shared by many attendees at the 13 March 2013 workshop. Other stakeholders have said that ORR is not best placed to perform the role of determining the needs of end users. Eurostar asked for clarification on what was included in "commercial matters relating to the fixed OMRC" which ORR would expect to see in the 5YAMS, as stated in paragraph 2.14 of the consultation document.

2.12 DB Schenker agreed that CP2 outputs should balance HS1 Ltd's vision, contractual requirements and customer views and expectations. DB Schenker added that EU and UK government policies on developing rail infrastructure for the growth of rail freight should also be considered as an important element of PR14.

2.13 Network Rail also agreed with the question's proposal, but asked for clarification on how ORR would assess whether this balance had been struck.

2.14 Southeastern agreed with ORR's proposal, and suggested that consideration be given to whole industry cost, including environmental costs such as carbon emissions. This would cover issues such as regenerative braking and a reduction in transmission losses from the power supply. Southeastern also made this point in response to question 8 of the consultation document.

#### *ORR views and conclusions*

2.15 In its initial consultation, ORR said that "*We expect that HS1 Ltd will continue to seek views from its customers, and potential customers, (in each case to include both operators and end customers) about what network they would like HS1 Ltd to provide and to share these views with us*".

2.16 ORR recognises that, as commercial TOC operations are built around and driven by the needs of their users, in practice this means that, as an operator inputs into PR14, the views of that operator's customers are also taken into account.

2.17 ORR further recognises that TOCs are 'on risk' for interpreting the requirements of their customers correctly, and for making their case strongly to HS1 Ltd as a result.

2.18 ORR does not wish to cut across commercial negotiations between HS1 Ltd and its customers. Having said that, we will expect HS1 Ltd to demonstrate that it has fully taken into account the needs of end users, through its negotiations with TOCs – and we will challenge HS1 Ltd strongly if we consider that it has not reflected the needs of its own customers (and thus end users) in the 5YAMS submission.

2.19 If HS1 Ltd's stakeholders do not consider that their views have adequately been taken into account, we would also expect to see this reflected in stakeholder representations made in response to the 5YAMS consultation – although the absence of any such representations would not preclude further challenge from ORR if we considered that the 5YAMS was deficient in this area.

2.20 As HS1 Ltd's vision for CP2 is based around customers' views, ORR considers that it should be reasonably straightforward for HS1 Ltd to demonstrate that a balance of these two factors mentioned in our original consultation has been struck.

2.21 "Commercial matters related to the fixed OMRC" incorporates matters such as performance versus cost trade-offs. This subject is discussed in more detail in this document.

2.22 ORR agrees that it is important that HS1 Ltd considers EU and UK government policies on developing rail infrastructure for the growth of rail freight.

2.23 ORR notes Southeastern's point on consideration of environmental costs including power supply, and notes that HS1 Ltd has two studies underway to address the issues raised by Southeastern.

2.24 HS1 Ltd's first study is investigating the technical feasibility of regenerative braking, given the restrictions on the nature of electricity that can be put back into the supply system. HS1 Ltd is holding a related discussion about the business case should any modifications (to either infrastructure or rolling stock) be required in order to facilitate regenerative braking.

2.25 HS1 Ltd's second study, recently underway, will address issues around 'transmission losses'. Some degree of transmission losses are inevitable in any electrical system, and for HS1 Ltd, the losses are driven by the location of the three feeder stations along the route. This study will highlight the degree of such losses and any options to reduce them. HS1 Ltd has pointed out that some of the 'losses' actually relate to power going into back-up systems. Part of HS1 Ltd's study will assess the business case for switching off some of these back-up systems. The case rests on the trade-off between electricity saved and the worsening in performance – in the event of a fault, HS1 Ltd has said that there would be time required for the system to power-up, leading to some additional delay.

2.26 ORR considers that the contractual requirements for the 5YAMS (and as such the outputs of a periodic review) are clearly stated in the [Concession Agreement](#). We expect HS1 Ltd to demonstrate that its submission is consistent with the requirements of the Concession Agreement, as well as all other relevant legislation and contractual requirements.

## Question 2 – Incentive mechanisms

2.27 ORR asked consultees (paragraph 2.21 of the initial consultation) whether they agreed that a wholesale review of the contractual incentives mechanisms was not necessary. ORR also asked for experiences of how the existing performance regime and possessions regimes were working.

### *Respondents' views*

2.28 DB Schenker, Eurostar, Southeastern, HS1 Ltd and Network Rail all agreed that a wholesale review of contractual incentive mechanisms was not necessary. Network Rail and Eurostar both noted that the regimes had not been in use for an extended period of time.

2.29 DB Schenker welcomed the programme of regular workshops to discuss incentives and requested that HS1 continue to keep stakeholders informed of the thresholds, payment rates, caps and recalibration under discussion. DB Schenker also noted that an “extremely high per minute of delay payment rate” was applied to international passenger services which precluded freight service operation during the daytime.

2.30 RFG said that it would wish to see incentive mechanisms provide the most suitable outcome for freight, giving certainty to operators and responding to market needs.

2.31 Eurostar said that FOCs were incentivised to run their services at night, and supported the balance of freight and passenger operator needs provided by this approach. Eurostar added that it would expect to see FOCs pay a “full commercial rate” for access and full participation in the performance regime, should FOCs wish to run services during the daytime.

2.32 DB Schenker questioned the role of the Delay Attribution Board (“DAB”) in terms of delay attribution on the HS1 network. Eurostar welcomed HS1 Ltd’s undertaking to improve the ways in which delays were allocated, and considered that management of the process in line with the Delay Attribution Guide (“DAG”) was a reasonable approach. Eurostar suggested that HS1 Ltd become a member of the DAB so that it could propose changes to the DAG.

2.33 Southeastern said that the current performance regime operated well, although it was not able to comment on the possessions regime. Southeastern expected that CP2 would continue to deliver a 7 Day Railway.

2.34 Railfuture said that the “levels of organisational involvement designated for HS1 were cumbersome and flawed” and alleged that this was evidenced by the time and consultations expended on reviews such as PR14. Railfuture said that it would favour a reform of contractual arrangements to simplify structures and to encourage growth on the HS1 network.

### *ORR views and conclusions*

2.35 ORR notes the views of respondents and the progress made so far through HS1 Ltd’s programme of regular workshops.

2.36 ORR agrees that a wholesale review of the contractual incentives mechanism is not necessary for CP2. However, ORR expects that a more thorough review will be required in subsequent periodic reviews to take account of the increased level of data on performance available to HS1 Ltd, and the higher levels of traffic which the HS1 network can be expected to experience.

2.37 Whilst a wholesale review is not necessary, ORR will nevertheless expect to see that the incentives regime still works to encourage efficient operation of the railway, drives the right behaviours and is set up to take into account the entry of new operators in CP2.

2.38 ORR agrees that freight is currently incentivised to run services at night and that, were it to run daytime services, it would be necessary for FOCs to participate in the performance regime, including payment rates and thresholds which reflect the actual or potential financial impact on other operators of delay caused by freight operators. ORR considers that the current principles of the HS1 Ltd performance regime reflect a good balance of performance payment rates and thresholds against times of operation.

2.39 ORR considers that the payment rates made to passenger operators reflect the value to passengers of running on time, and are rates which cannot be arbitrarily modified.

2.40 The HS1 network was designed primarily for high-speed passenger operations, which is reflected in the Declaration of Specialised Infrastructure, as provided for under Regulation 22 of the Regulations. Within the context of this declaration, HS1 Ltd endeavours to meet the needs of FOCs using the HS1 network. ORR considers that the current arrangements provide incentives to FOCs to operate at night, with a discounted track access charge and the reduced likelihood of disrupting passenger traffic.

2.41 As was noted in ORR's initial consultation document, we would remind stakeholders that the performance regime caps are specifically excluded from review within the PR14 process.

2.42 ORR also notes comments which were raised on HS1 Ltd's membership of the DAB. ORR notes that there has been no dispute on the HS1 network to date and that a dispute resolution procedure, whilst important, is less of a concern for the HS1 network given the smaller number of operators and greater available capacity. HS1 Ltd is governed by the DAG and allocates capacity in accordance with its agreed Access Terms. HS1 Ltd has noted that the cost of membership of the DAB would be borne by the industry, and HS1 Ltd is attempting to keep costs borne by its operators down for CP2.

2.43 ORR supports Southeastern's expectation of a 7 Day Railway in CP2, and will consider HS1 Ltd's possessions strategy in light of striking a reasonable balance between the needs of both passenger and freight operators and HS1 Ltd's obligations as a responsible infrastructure manager.

2.44 In response to Railfuture's comments, ORR is required by the Concession Agreement to carry out an initial consultation. ORR values the use of consultations to 'take the temperature' of the industry and to give stakeholders a chance to openly share their views and concerns. Listening to and addressing, where possible, the views of the rail industry is one of the ways in which ORR attempts to facilitate market growth.

2.45 ORR notes HS1 Ltd's consultative and open approach to its review of the incentives mechanisms, and expects this to continue for the duration of the review.

### **Question 3 – Efficiency and outperformance**

2.46 ORR asked consultees (paragraph 2.23 of the initial consultation) for their thoughts and ideas on the ways in which parties could work with HS1 Ltd to improve efficiency, including any comments related to the outperformance mechanism.

### *Respondents' views*

2.47 HS1 welcomed the commitment provided by NR(HS) to share outperformance with operators and HS1 Ltd in the last three years of CP2, noting that this was beyond the challenging but achievable target which ORR would set for CP2, but remained an important objective to help drive down costs.

2.48 Network Rail considered that the four key principles for efficiency sharing were simplicity, the need to avoid perverse incentives, clarity of the baseline against which performance is measured and clarity on how outperformance is assessed.

2.49 HS1 Ltd's comments are echoed by Eurostar, which considers the 10% reduction in charges being a "starting point" for PR14, which should look at achieving further efficiency benefits – although Eurostar did note that the current approach went beyond what was contractually required. Eurostar also notes that the Operator Agreement, between NR(HS) and HS1 Ltd has still not been market tested, and will not be for at least a further two Control Periods. Eurostar asks ORR to return to first principles and consider what the efficient costs for the HS1 network would be. Eurostar notes that the baseline efficiency target must be challenging, to avoid the perverse incentive of HS1 encouraging a softer efficiency target, in order that HS1 Ltd benefits from greater outperformance.

2.50 Southeastern added to this point that it was important to incentivise NR (HS) to reduce costs, given the contractual set up and company structure. Southeastern also said that it is important to formalise the outperformance benefit sharing mechanism for CP2.

2.51 Railfuture commented that options for diversionary routes in the event of significant incidents were limited due to infrastructure constraints, and that to retain pre-existing infrastructure would have involved extra expense.

### *ORR views and conclusions*

2.52 ORR agrees with the principles Network Rail outlines for an outperformance sharing mechanism. ORR considers that the efficient operation and maintenance elements of the access charges, as determined before the start of each Control Period through the agreed 5YAMS, act as the baseline for determining outperformance. Any underspend achieved whilst delivering the required output targets without compromising the long-term asset condition and serviceability of the HS1 network will be classified as outperformance.

2.53 ORR recognises the concern that HS1 Ltd is potentially incentivised to set a 'soft' target so that outperformance becomes less challenging. ORR will require robust evidence from HS1 Ltd that the figures in its submission are challenging but achievable, and will challenge strongly if we consider that the target set is not sufficiently demanding of HS1 Ltd. In doing so, ORR would expect, amongst other things, to reflect issues where assets have not been maintained in line with asset specific policies to avoid the potential for lower costs (due to poorer maintenance) being mistaken for outperformance.

2.54 ORR considers that the outperformance mechanism must incorporate the impact of underperformance – all parties must bear the risk for underperformance (i.e. where costs are higher than expected) as well as outperformance. The onus is therefore on TOCs and HS1 Ltd to reach a challenging but achievable level of charges, and for TOCs in particular (as well as ORR) to challenge HS1 Ltd's assumptions and conclusions.

2.55 In terms of formalising the outperformance benefit sharing mechanism, ORR expects that the 5YAMS will set out the nature and specifics of the mechanism, alongside any proposal for incorporating these into

HS1 Ltd's passenger and freight access terms, framework agreements and network statement, as well as anywhere else it is appropriate to do so. These changes will be made as part of the implementation stage of PR14, once a final determination has been reached.

2.56 ORR agrees that retaining infrastructure which was no longer required following construction of Section 1 of the HS1 network would likely have proved prohibitively expensive, considering the likely marginal benefits of having an alternate route available. ORR considers that the current HS1 network infrastructure, and contractual mechanisms, should be used in such a way as to provide sufficient opportunity and incentive to drive outperformance.

#### **Question 4 – Structure of charges**

2.57 ORR asked consultees (paragraph 2.25 of the initial consultation) whether they considered that the existing structure of charges was consistent with the Regulations, and whether they considered that the existing structure of charges created efficiency incentives.

##### *Respondents' views*

2.58 Network Rail had no specific comment to make, but noted that HS1 Ltd was reviewing its structure of charges.

2.59 Southeastern said that the structure of charges, including the high IRC, could be a barrier to stimulating growth, and that this potential barrier should be addressed as part of PR14. Southeastern added that if the charges set for CP2 were to increase by less than RPI each year, an efficiency incentive would be created. Southeastern also said that it would welcome an incentive for reducing whole industry costs and delivering power more efficiently by reducing transmission losses.

2.60 HS1 Ltd said that there has been no appetite from industry stakeholders to modify the existing structure of charges. HS1 Ltd noted that the current charging framework was consulted on widely and shares costs fairly across TOCs. HS1 said that whilst the structure of charges itself did not create incentives to reduce costs, there were clear incentives created by the PR14 process to do so.

2.61 HS1 Ltd said that it was currently finalising its review of the consistency of its charges with the Regulations. HS1 Ltd added that, if it considered that any changes to the structure of its charges were necessary to provide compliance with the legislation, it would consult on these proposed changes.

2.62 Eurostar said that the existing structure of charges was consistent with the Regulations, and that it generally agreed with the principles applied to determine the charges. Eurostar encouraged HS1 Ltd and ORR to look for simplicity in the calculation of charges, where possible.

2.63 Eurostar said that it was important that the PR14 process assessed how the charging principles were applied to determine charges, in particular by focusing on unit cost efficiency. Eurostar saw PR14 as a key mechanism for setting efficiency incentives and driving efficiency improvements. Eurostar said that key issues to be addressed included the treatment of volatility of services (e.g. taking account of new entrants), the setting of boundaries on reopeners and appropriate pricing levels for breaches of boundaries, the way in which the charging regime will accommodate Eurostar's new rolling stock and investments which enable further efficiencies (e.g. through energy distribution losses, EC4T and train metering).

2.64 Eurostar asked that cost/performance relationship information (such as information which identifies different levels of operational performance in relation to the varying costs of delivering performance levels) is shared with TOCS as part of the PR14 process.

2.65 DB Schenker considered that it was required to pay more than the incremental cost (cost directly incurred) as provided for in paragraph 1 of Schedule 3 to the Regulations for running its services, and that an element of its charges (the freight avoidable element) constituted a mark-up. DB Schenker noted that mark-ups, which may be levied under paragraph 2 of Schedule 3 to the Regulations, must not exclude the use of the infrastructure by market segments which can pay at least the cost directly incurred, plus a rate of return which the market can bear.

2.66 DB Schenker noted that on the GB national network, some FOC markets were required to pay a contribution to their avoidable costs on top of the variable costs which those markets already pay. As the Regulations apply to both the GB national and HS1 networks, DB Schenker has questioned whether both the variable and avoidable elements of freight charges should be levied on freight services that cannot afford to pay a mark-up. DB Schenker considers that freight services on the HS1 network should only pay the variable element of HS1 Ltd's freight access charge, as the avoidable cost element may constitute a mark-up.

#### *ORR views and conclusions*

2.67 ORR has noted Southeastern's view on whole industry and environmental costs, and has responded to this point at paragraph 2.23-2.25. Whilst the structure of charges is being reviewed as a part of the PR14 work, under the Concession Agreement, ORR does not have a role in relation to agreeing or determining the level of any IRC to be levied by HS1 (except in limited circumstances such as approving an additional IRC to be levied in relation to a specified upgrade). Separately, Regulation 28(2) of the Regulations gives ORR a role in ensuring the structure of charges is consistent with the charging principles and Regulation 29 of the Regulations provides that we should hear any appeals relating to charging. However, as noted in our [Regulatory Statement](#), given the principle that the IRC is set at a level to recover the capital costs of the project over the longer term, we would not expect, in considering any appeals concerning this charge, to change the arrangements for it, as set out in the charging framework.

2.68 ORR notes the work HS1 Ltd is undertaking on the consistency of its charges with the charging principles. ORR has been working closely with HS1 Ltd to ensure that the way in which its charges are structured is compliant with the Regulations. Should HS1 Ltd be required to make changes to the structure of its charges, it has recognised the need to consult on any proposed changes, alongside existing PR14 work.

2.69 ORR notes Eurostar's list of issues which need to be addressed as part of PR14, and understands that HS1 Ltd is addressing them through the various PR14 workstreams, particularly, as is the case for the basis of reopener provisions, as part of the demand forecast element of work.

2.70 The issues around charges for changes in rolling-stock are being addressed through HS1 Ltd's financial model, which converts costs into charges. An element of this model is driven by rolling stock characteristics. One of the changes which HS1 Ltd is making to the model is to 'future proof' it so that it can adapt to changes on the HS1 network, such as the arrival of new operators or the introduction of new rolling stock.

2.71 ORR notes and agrees with Eurostar's request that relevant cost/performance data be shared with TOCs in full so that they are able to make informed decisions about the benefits or disbenefits of any proposal which they may be asked to endorse and adopt. As ORR has previously said, we will expect to see robust justification from HS1 Ltd for any proposal which leads to a drop in performance (even if there is a corresponding reduction in costs) or an increase in performance which may be disproportionate with any corresponding increase in costs.

2.72 ORR notes DB Schenker's point on the access charges which FOCs are required to pay, and the concern over their potential lack of consistency with the Regulations. ORR is currently working with HS1 Ltd to ensure that the structure of charges is consistent with the Regulations. HS1 Ltd has been asked to verify how their charging structure conforms to the legislation, and ORR will review the evidence when it is provided.

### **Question 5 – Escrow account**

2.73 ORR asked consultees (paragraph 2.35 of the initial consultation) for their views on the operation of the route escrow account. Please note, this question, and the responses, do not cover use of the separate escrow accounts which have been established for each of HS1 Ltd's four stations.

#### *Respondents' views*

2.74 Network Rail said that the escrow account arrangements seemed appropriate but, as they had yet to be tested, it would be sensible to review them at the next HS1 periodic review.

2.75 HS1 Ltd acknowledged that further discussion is required around the treatment of risk, any cash shortfall and outcomes where actual expenditure differs from planned expenditure. HS1 Ltd added that the appropriate mechanism needs to reflect the uncertainty in forecasting required future work, whilst retaining sufficient flexibility to implement different, more efficient solutions. It must also preserve existing efficiency mechanisms for the HS1 network. HS1 Ltd concluded that the whole-life cost modelling work being undertaken as part of PR14 would assist with further discussions.

2.76 Eurostar said that it would be difficult to comment on the escrow arrangements without having first reviewed the 5YAMS, asset condition register, maintenance and renewal strategy and proposed restrictions of use.

2.77 Eurostar agreed with HS1 Ltd that there was more to discuss on funding the escrow account, the build-up of funds and future expenditure as driven by the asset management strategy. Eurostar suggested that there was a potential for a perverse incentive for HS1 Ltd in terms of setting the level of contributions to the escrow account. Given that HS1 Ltd must bear the risk for funding the escrow account adequately, Eurostar considered that HS1 Ltd might be incentivised to set the level of contributions sufficiently high to provide a large cushion against any risk of a funding shortfall. Eurostar acknowledged that the fundamental principle of the escrow account was to smooth the cost of renewals.

2.78 Eurostar said that it would be interested in exploring ways of smoothing costs whilst avoiding such a cushioning incentive on HS1 Ltd. Eurostar said that it assumed that renewals costs would be determined by both levels of activity and unit cost, consistent with an efficient whole-life asset management strategy and incorporating movements in the best practice efficiency frontier over time.

2.79 Eurostar suggested that that one method of avoiding such an incentive on HS1 Ltd would be the inclusion of a separate renewals plan consultation at the start of each Control Period, with a mid-Control Period review of escrow contributions (where required), which would be subject to ORR review and approval.

2.80 Southeastern responded that the methodology for operation of the escrow account must balance the need for ensuring sufficient funding against the requirement for operators to pay into a fund which effectively insures future operators.

### *ORR views and conclusions*

2.81 ORR acknowledges that, given the relative youth of the HS1 network, it has not yet been necessary to use the escrow account to fund renewals work. ORR agrees that it will be necessary to keep the escrow arrangements under review, to ensure that the account is adequately funded, and that withdrawals from the escrow account are taking place correctly. ORR will require HS1 Ltd to demonstrate that the escrow account is adequately funded, particularly in light of the [Lloyds Register report](#) on asset specific policies jointly commissioned by HS1 Ltd and ORR.

2.82 ORR is of the view that the risk for ensuring that adequate funds are available in the escrow account to fund necessary renewal works, both planned and unexpected, lies with HS1 Ltd as the HS1 network infrastructure manager.

2.83 In the event that there are insufficient funds available in the escrow account to fund planned renewals, HS1 Ltd may need to defer or de-scope other work to accommodate any shortfall, whilst ensuring as smooth a level of payments into the escrow account as possible across control periods. However, we will not accept a proposal which allows HS1 Ltd to defer safety-critical renewal work. Whilst we expect that the process governing use of escrow account funds will recognise the reasons for any funding shortfall, as the infrastructure manager, HS1 Ltd must be able to demonstrate that it is able to finance safety-critical renewals work, whether or not it is ultimately responsible for the shortfall.

2.84 ORR recognises the concern over the potential for HS1 Ltd ‘padding’ the escrow account to insulate against potential shortfalls in funding. ORR expects that HS1 Ltd will fund the escrow account in line with the funding required by ORR’s 5YAMS determination as well as HS1 Ltd’s own whole-concession view of asset management, with a sufficient margin (recovered as part of the renewals element of charges levied by HS1 Ltd, rather than added above and beyond those charges) to address any unplanned, urgent renewals work which may arise during CP2 (and beyond).

2.85 ORR notes Eurostar’s suggestion of a separate renewal plan, to be submitted in advance of a Control Period, accompanied by a possible mid-Control Period review. ORR considers that the provisions of the Concession Agreement, and the requirements for HS1 Ltd to produce a 5YAMS, Asset Management Annual Statement and Asset Specific Policies, are sufficient to demonstrate that HS1 Ltd is meeting its asset management obligations. Ongoing regulatory supervision, in addition to the roles which ORR and DfT have in approving access to escrow funds, serve as sufficient mechanisms for holding HS1 Ltd’s expenditure – and the efficiency of that expenditure – to account.

2.86 ORR, DfT and HS1 Ltd are in the process of agreeing a procedure for approving withdrawals from the escrow account to fund renewals work, in line with the requirements of the Concession Agreement and the conclusions we have reached above.

### **Question 6 – Benchmarking**

2.87 ORR asked consultees (paragraph 2.41 of the initial consultation) whether they considered that there were any gaps in HS1 Ltd’s benchmarking programme.

#### *Respondents’ views*

2.88 Network Rail believed that there were no gaps in the benchmarking proposals, but noted the difficulty of getting comparable data on a like-for-like basis from other countries. Network Rail suggested that results should be treated with caution.

2.89 Southeastern said that it hoped to see benchmarking against railways and assets with similar characteristics and age.

2.90 Eurostar was supportive of the benchmarking work as a way of understanding HS1 Ltd's costs and their drivers. Eurostar also noted the difficulties with the completion of top-down benchmarking activities, given the challenge in identifying sufficiently similar comparator networks. Eurostar emphasised the importance of bottom-up benchmarking, and welcomed a detailed presentation by HS1 Ltd on spending and efficiency plans.

2.91 DB Schenker said that it wanted to ensure that benchmarking against comparator organisations and high-speed networks which do not allow freight to operate on them (unlike the HS1 network) did not lead to additional costs being weighted towards the operation of conventional freight on the HS1 network. DB Schenker said that it was important to avoid any other disadvantages resulting from an analysis which did not take this difference into account.

2.92 DB Schenker expressed concern that it may be difficult for NR (HS) to match other maintainer's costs for certain freight-only infrastructure because it does not have separate standards for such maintenance, and must necessarily apply its applicable standards for the national network. DB Schenker said that this may result in OMR costs being higher than might be the case if separate standards for freight-only assets were applied.

2.93 DB Schenker considered that HS1 Ltd should carry out benchmarking of its freight avoidable assets, particularly the Ripple Lane Exchange Sidings, against examples of similar sidings in the UK maintained either by Network Rail or a third party.

2.94 HS1 Ltd said that its benchmarking programme was extremely comprehensive, but constituted only one of several inputs into its 'efficiency story' for CP2. HS1 Ltd added that the benchmarking exercise was unlikely to generate a specific and incontrovertible estimate of efficiency, given inherent limitations on available data and necessary adjustments for HS1 network-specific factors.

#### *ORR views and conclusions*

2.95 ORR agrees that benchmarking must be carried out against a number of suitably similar comparator organisations or routes, many of whom will necessarily be international and notes that HS1 Ltd's benchmarking programme takes account of this requirement.

2.96 ORR appreciates that it has been challenging to secure a sufficient number and suitable range of comparators, but is nevertheless pleased with the progress of HS1 Ltd's benchmarking programme to date. ORR's current understanding is that HS1 Ltd has secured data from at least five comparator organisations across Europe and Asia. ORR is hopeful that successful benchmarking becomes easier to achieve as links between HS1 Ltd and comparator organisations are created and strengthened through subsequent control periods, and as more data on the HS1 network becomes available as the HS1 network ages.

2.97 ORR notes Eurostar's request for a detailed presentation on HS1 Ltd's benchmarking activities. Eurostar will be aware that a PR14 workshop has been established for 26 June 2013 to discuss this specific issue in more detail with stakeholders.

2.98 ORR notes DB Schenker's point that the HS1 network is unusual in that it is a high speed line which permits conventional freight operation, and that comparator analysis should take this difference into account. As part of the comparator analysis HS1 Ltd is undertaking, their consultants have already

identified the mix between passenger and freight traffic as an important inherent cost driver. ORR also notes DB Schenker's concern over NR (HS)'s ability to match other maintainer's costs for freight-avoidable assets and DB Schenker's point on benchmarking of freight avoidable assets. ORR also notes that freight-related aspects of the HS1 network form a specific part of Leigh Fisher's benchmarking analysis.

### **Question 7 – Further areas for exploration**

2.99 ORR asked consultees (paragraph 2.42 of the initial consultation) whether the document comprehensively covered those areas which should be considered as part of PR14, or whether there were any other areas which should be explored.

#### *Respondents' views*

2.100 HS1 Ltd said that the document was comprehensive. Eurostar said that the document covered the key themes for PR14, but that as work progressed, additional points of importance may arise.

2.101 Southeastern said that plans and opportunities for efficiency should include whole industry efficiency as well as HS1 Ltd efficiency.

2.102 DB Schenker said that the document covered the majority of the relevant areas for PR14. DB Schenker reiterated the importance of the continuation of the freight subsidy into CP2. DB Schenker also said that the PR14 process should consider introducing a regime through the 5YAMS that incentivises HS1 Ltd to be more flexible with regard to the operation of rail freight overnight alongside required engineering work. The aim of this would be to strike a balance between the needs of freight operators and HS1 Ltd's responsibilities as the infrastructure manager.

2.103 Railfuture said that operators using the HS1 network faced "excessive infrastructure user charges" and suggested a comparison of infrastructure charges on classic and high-speed networks in Western Europe to identify discrepancies in costs and charging, and the possible effect this is having on traffic levels on the HS1 network.

#### *ORR views and conclusions*

2.104 ORR acknowledges that, whilst the consultation document was intended to be comprehensive at the time of writing, other issues may arise or evolve as the PR14 process continues. We are confident in HS1 Ltd's ability to react to any changes or emerging issues, and to involve its stakeholders, including ORR, in relevant discussions.

2.105 ORR notes Southeastern's comments on whole industry efficiency, and has set out its response to this point earlier in this document.

2.106 ORR has noted DB Schenker's representations on the continuation of the freight subsidy, and our response is provided in paragraph 2.133-2.135. ORR's response on network availability for rail freight during overnight maintenance is set out in paragraphs 2.139-2.140.

2.107 ORR also notes Railfuture's comments on the level of charges for use of the HS1 network, including its suggestion for a cross-network comparison of charging. As noted in this document and in our initial consultation document, HS1 Ltd is undertaking a comprehensive top-down and bottom-up benchmarking programme, using a number of international comparator organisations. Further information is set out in our initial consultation document, and in our conclusions on question 6, starting at paragraph 2.95.

## Question 8 – Timescales

2.108 ORR asked consultees (paragraph 3.12 of the initial consultation) for their views on the PR14 timescales set out in the consultation document.

### *Respondents' views*

2.109 Network Rail noted that the timescales for delivery are very tight, but that NR (HS) is working constructively with HS1 Ltd, and is fully committed to providing its inputs in the timescales required. DB Schenker agreed that the timescales were challenging but achievable.

2.110 Eurostar welcomed the ability to plan its resources and PR14 team effectively. Eurostar said that, in order for stakeholders to have adequate time to review the draft 5YAMS when HS1 Ltd launches its consultation in October 2013, it is important that the consultation be launched in early October 2013. If the 5YAMS consultation is launched later, stakeholders may not have the adequate resource and expertise in place to consider the 5YAMS, particularly in what is traditionally a busy time for TOCs.

2.111 HS1 Ltd said that the timescales are clearly tight, but formed part of HS1 Ltd's commitment to regular dialogue with its stakeholders so that 'surprises' are eliminated from the final 5YAMS submission. HS1 Ltd also noted that the timescales had been the subject of extensive discussion and consultation.

2.112 Southeastern said that it did not understand how OMR charges could be proposed in advance of the conclusion of the 5YAMS, as it believed that the 5YAMS was intended to inform the necessary expenditure and, as such, OMR charges.

2.113 Southeastern also welcomed the approach which HS1 Ltd has taken to align the stations review with the 5YAMS consultation. This would help avoid double-counting or conflicts for users of both the route and stations aspects of HS1 Ltd's infrastructure.

### *ORR views and conclusions*

2.114 ORR agrees that the timescales for delivery are tight, with flexibility for delivery predominantly constrained by the requirements of the Concession Agreement.

2.115 ORR notes Eurostar's point on its preferred timing for HS1 Ltd's 5YAMS consultation launch. ORR agrees that it is important that consultees have sufficient time to consider the draft 5YAMS and formulate an informed, full response.

2.116 We understand that HS1 Ltd intends to consult on its draft 5YAMS for a minimum period of six weeks. ORR believes that six weeks represents a reasonable timeframe, balancing the likely size and content of the 5YAMS document against consultees' pre-existing familiarity with the work as a result of HS1 Ltd's programme of engagement.

2.117 HS1 Ltd will also wish to allow sufficient time to make any necessary alterations to the draft 5YAMS as a result of comments it receives through the consultation, whilst still meeting its deadline for submission to ORR of 31 December 2013, as required by the Concession Agreement.

2.118 ORR expects to produce a post-project review document at the conclusion of the PR14 process which will record, amongst other things, the necessity of beginning the periodic review process as early as possible to mitigate risk around the timescales prescribed by the Concession Agreement. This includes ORR's own initial consultation for future periodic reviews which, with the benefit of hindsight, could more

usefully have been launched earlier in the PR14 timeline to provide stakeholders with a greater degree of certainty and to assist more effectively in the overall review process.

2.119 The 5YAMS will set out, amongst other matters, the funds required for the operation, maintenance and renewal of the HS1 network in CP2, which will lead to the generation of an access charge figure, whilst taking into account the results of the benchmarking studies, regulatory framework recalibration and the outputs of other PR14 workstreams. In this way, ORR will be able to see the proposed access charges for CP2, and the costs which lie behind them, before coming to a final determination.

2.120 ORR agrees that it is sensible, where possible, to align the review processes across both route and stations. The way in which costs are allocated across the two reviews is of particular importance to ORR, and we meet regularly with HS1 Ltd and DfT to discuss the alignment of the two processes.

### **Question 9 – General**

2.121 ORR asked consultees (paragraph 3.12 of the initial consultation) whether they had any further comments to make on the consultation document, or on PR14.

#### *Respondents' views*

2.122 Eurostar said that it was keen to fully support and engage with the PR14 process, and urged early provision of information to ensure that it was able to review the information in good time and provide a timely, substantive and informed response.

2.123 DB Schenker confirmed that it had no further comments to add, but hoped to continue to provide input throughout the PR14 process through various stakeholder sessions and consultations.

2.124 Railfuture questioned whether there was “hidden evidence” for what it perceived as reluctance from Eurostar to serve Ashford International as extensively as Ebbsfleet International. It considered that this evidence might take the form of potential extra charges for leaving and re-joining the HS1 network, noting that there is a reference in the consultation document to “too many signallers at Ashford”.

#### *ORR views and conclusions*

2.125 ORR notes Eurostar's requests for timely information to inform its engagement and input, and agrees with this principle. ORR is aware of the high level of engagement which HS1 Ltd is enjoying with its stakeholders, which has inspired confidence in the overall PR14 process. ORR has so far received no intelligence to suggest that HS1 Ltd's approach has been deficient, slow or incomplete.

2.126 ORR is disappointed to learn that Railfuture considered the language of the initial consultation document “very technical and contractual”. ORR is mindful of the need to make its publications simple to read and understand and strives to do this as far as possible. However, ORR is unsure whether Railfuture may have confused ORR's initial consultation document with Interfleet Ltd's initial benchmarking report, the latter of which makes reference to the number of signallers at Ashford.

2.127 ORR considers that the reference to signallers at Ashford refers to those performing signalling and control functions at the HS1 network control centre located at Ashford, rather than to a high number of signalling staff present at Ashford International station (the latter of which Railfuture suggests may have an impact on station stopping patterns).

2.128 ORR wishes to clarify that Eurostar does not face financial penalties for making station stops at Ashford International. Whilst Eurostar is charged by Network Rail for access to the track at Ashford

International, in accordance with the terms of the track access contract between Network Rail and Eurostar, the IRC paid by Eurostar for use of the HS1 network is suspended for station stops, so as not to act as a disincentive for calling at intermediate stations. Charges are calculated on a pre-designated journey time, fixed at the start of each Control Period (which, for Eurostar is currently 31 minutes). Regardless of stopping pattern or timetabled journey time, Eurostar pays the IRC figure on the basis of a 31 minute journey time.

2.129 Any decision by Eurostar on its level of services at stations will be based on commercial decisions and negotiations between Eurostar and HS1 Ltd.

## **Freight-specific comments**

### *Freight avoidable costs*

2.130 RFG requested that the points raised in its [response](#) to HS1 Ltd's July 2011 freight avoidable costs review consultation be taken into account as part of PR14, to the extent that they had not already been addressed. RFG added that "the ability of any market to bear any increased level of cost must be judged against the affordability of the end to end journey by rail and competing modes, not just the UK element".

2.131 DB Schenker noted that freight-specific assets made up the major proportion of costs for freight access charges on the HS1 network. DB Schenker suggested that these assets do not need to be maintained to the same standard as those assets related to the running of high-speed trains on the rest of the HS1 network. ORR understands that DB Schenker is discussing the level of maintenance required for freight-only assets with HS1 Ltd as part of the PR14 process.

2.132 DB Schenker also offered to assist HS1 Ltd with its review of freight avoidable costs and identification of efficiencies, given its considerable experience in the maintenance and operation of freight specific infrastructure.

### *Freight subsidy*

2.133 Freight services on the HS1 network are currently subject to a discount, due to expire at the end of CP1. This discount takes the form of a subsidy, paid through franchised passenger operators and ultimately funded by DfT.

2.134 RFG and DB Schenker both wrote in support of a continuation of the discount into CP2, stating that the subsidy was vital for the survival of both existing and new services.

2.135 Whilst ORR is in favour of the growth of traffic and markets on the HS1 network, the continuation or otherwise of the provision of a freight subsidy remains with DfT. At the time of writing, DfT has written to HS1 Ltd and FOCs requesting a business case for the continuation of funding from DfT. HS1 Ltd has indicated that it will make a joint response with FOCs.

### *Freight growth*

2.136 DB Schenker noted that the capability of freight to run at 100kph as well as 120kph+ was a key factor in freight growth. HS1 Ltd has noted this point and stated that the maximum running speed for conventional freight is 140kph.

2.137 DB Schenker also noted that the availability of suitable and sufficient daytime capacity and an affordable performance regime were key factors – these topics are dealt with in our conclusions on question 2, above.

2.138 DB Schenker said that the commissioning of links to the national railway infrastructure to increase the range of journey opportunities would help continued freight growth. ORR notes that the HS1 connection to the North London Line was commissioned in May 2013.

#### *Network availability*

2.139 DB Schenker commented that a regime should be introduced through the 5YAMS which incentivised HS1 Ltd to be more flexible with regards to the operation of rail freight overnight, during periods of maintenance work. DB Schenker considered that the HS1 network was designed to allow the continued operation of trains during most routine maintenance, and that HS1 Ltd should be incentivised to use this available flexibility.

2.140 ORR notes that a freight catalogue path system would be open to use by FOCs, if the FOC chooses to enter into a regulated framework agreement. Consultation on this catalogue path system took place in 2012.

#### **Structure and contents of the 5YAMS - guidance**

2.141 In the initial consultation document (paragraph 2.8), we said that it would be important to agree the format, structure and precise contents of the 5YAMS as early as possible. This would ensure that both ORR and HS1 Ltd had an agreed understanding and interpretation of the requirements of the [Concession Agreement](#) in advance of the 5YAMS submission.

2.142 Following ongoing discussions between ORR and HS1 Ltd, it has been possible to resolve a number of questions over the level of granularity, type and presentation of information in the 5YAMS, without the need for ORR to issue formal guidance. ORR has also reviewed the 5YAMS document itself at various stages in its production, in order to guide HS1 Ltd on the format and content of that document. The structure is largely based on the model for NRIL's Strategic Business Plan, where it has been appropriate for HS1 Ltd to do so. ORR has agreed that the structure of the 5YAMS is sound. We are therefore currently confident that the 5YAMS on which HS1 Ltd will consult, and that ORR will be asked to approve, will be in such a format and contain such content as is envisaged in the requirements set out by the Concession Agreement. We will continue to discuss the 5YAMS document with HS1 Ltd.

2.143 ORR has concluded that it is not necessary to produce any formal guidance on the structure, format and content of the 5YAMS. Instead, we remain committed to our ongoing dialogue with HS1 Ltd to discuss any future concerns in this area, as they arise.

# 3. Timescales

## Introduction

3.1 This chapter sets out the PR14 timetable and the key milestones. This timetable is driven largely by the requirements of the [Concession Agreement](#) and is intended to inform stakeholders and to give them an opportunity to plan their resources accordingly.

3.2 The contents of this chapter largely comprise an update of the information presented in the initial consultation document. For further background information on the timescales and milestones of PR14, please see the [initial consultation](#) document.

Figure 1: PR14 timetable

Timetable – PR14		
Consultation and development stage		<a href="#">Concession Agreement</a> stipulations
By end June 2013	ORR issues its conclusions on the initial consultation, thus notifying HS1 Ltd and stakeholders of the process it intends to adopt for the conduct of PR14.	<i>This is a fixed date and must occur no more than 60 business days after the close of consultation</i>
July 2013	Proposals on regulatory framework issued.	
July 2013	Completion of bottom-up benchmarking workstream.	
July-August 2013	Development of an asset management suite. Draft material shared with stakeholders on a progressive	
July-August 2013	If required, consultation on revised structure of charges to ensure compliance with legislation	
August 2013	Completion of the top-down benchmarking programme.	
<b>Submission of Five Year Asset Management Statement</b>		

*In line with the process set out in the Concession Agreement, HS1 Ltd must consult on its 5YAMS. ORR will take into account consultees' responses when considering the 5YAMS.*

<b>5YAMS submission</b>		<b>Concession Agreement stipulations</b>
August 2013	HS1 Ltd gathers informal consultee views on key elements of the 5YAMS.	
October 2013	HS1 Ltd launches its consultation on the draft 5YAMS.	<i>This must be timed to permit adequate time to submit the 5YAMS to ORR – see</i>
December 2013	HS1 Ltd shall produce and submit to the ORR a Five Year Asset Management Statement (5YAMS).	<i>This must occur at least 15 months prior to the end of CP1. (Latest date 31 December 2013).</i>
April 2014	ORR approves the HS1 Ltd 5YAMS. <b>OR</b> ORR advises HS1 Ltd that the 5YAMS is not consistent with HS1's general asset stewardship duty.	<i>This is a fixed date and must occur no more than 90 business days from HS1 Ltd's submission.</i>
<i>If we determine the 5YAMS is not consistent with HS1's general asset stewardship duty:</i>		
May 2014	HS1 Ltd shall produce and submit an amended or new (as appropriate) 5YAMS.	<i>This is a fixed date (but which can be negotiated). It must be 20 business days from the stage above (or longer, if agreed).</i>
June 2014	ORR approves the HS1 Ltd 5YAMS <b>OR</b> ORR will determine which elements of the 5YAMS are still inconsistent.	<i>This is a fixed date and must occur no later than 60 business days prior to the expiry of the current Control Period. (Latest date 06/01/2015).</i>
July 2014	If the 5YAMS is determined as inconsistent, HS1 Ltd will produce and submit a revised 5YAMS.	<i>This is a fixed date and must occur within 20 business days of the above determination.</i>
August 2014	ORR approves the 5YAMS <b>OR</b> ORR will notify HS1 Ltd of the ways in which it considers it to be deficient. If no notice is served then it shall be deemed approved.	<i>This is a fixed date and must occur within 20 business days of ORR receiving the revised 5YAMS.</i>
September 2014	HS1 Ltd will produce a further revised 5YAMS and ORR can implement an enforcement procedure if it is still determined to be deficient.	<i>This is a fixed date and must occur within 15 business days of our notice.</i>
1 April 2015	Implementation of PR14 determination and start of CP2.	

# Annex A: list of respondents

Please note: hyperlinks in a respondent's name links directly to their response on the ORR website

Respondent	Date
<a href="#">Network Rail</a>	15 April 2013
<a href="#">Rail Freight Group</a>	16 April 2013
<a href="#">Railfuture</a>	16 April 2013
<a href="#">Eurostar International Ltd</a>	16 April 2013
<a href="#">DB Schenker</a>	16 April 2013
<a href="#">HS1 Ltd</a>	16 April 2013
<a href="#">Southeastern Ltd</a>	1 May 2013

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