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Dear stakeholder

**Office of Rail and Road periodic review of HS1 Ltd 2019 (PR19)**

As you will be aware ORR and DfT received a letter from Eurostar International Ltd (“Eurostar”) regarding the periodic reviews of route and station funding for the period review 2020-25 (Control Period 3 or “CP3”) on 15 February 2019. The letter requested a two-month suspension of the periodic review due to the demands on its business relating to planning for the UK to leave the European Union (“EU”).

Following this request, on 27 February 2019<sup>1</sup> we undertook a consultation with affected stakeholders to consider how the process could be changed to provide Eurostar with a greater opportunity to engage in it. We noted that it would not be possible to delay the publication of the draft Five Year Asset Management Statement (“5YAMS”)<sup>2</sup> and the start of the public consultation, but sought stakeholder views on how to proceed. We set out a number of different options.

We received a number of responses to our consultation and subsequently attended a meeting with HS1 and DfT (the parties to the Concession Agreement) to discuss options for changes to the process and our respective positions.

Based on our consideration of the consultation responses, our understanding of the positions of the parties, and in view of the provisions of the Concession Agreement, at our board meeting on 26 March 2019 we decided to add a step in the process giving Eurostar the opportunity to make representations directly to us by mid-June, after the submission of the final 5YAMS by HS1 in May, and then give HS1 the opportunity to consider and respond to those representations. All stakeholders would then have an opportunity to respond to our Draft Determination in a public consultation (and we currently envisage that around six weeks would give adequate time for stakeholders to respond to that consultation).

Subsequent to this decision being made, an alternative proposal was made to us by Eurostar and further representations were made to us by HS1 on its position. These matters should be subject to further consideration and our board should have an opportunity to consider them. We will be doing further work within ORR and requesting further information from HS1 to enable us to consider whether agreement is likely to be reached on a proposal to vary the process set out in the Concession Agreement.

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<sup>1</sup> <https://orr.gov.uk/rail/publications/economic-regulation-publications/process-for-the-orr-periodic-review-of-hs1-ltd-2019-pr19>

<sup>2</sup> This letter refers to the “draft” and “final” 5YAMS as those terms are used in the Concession Agreement



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As part of this, we would like to give stakeholders an opportunity to consider a variation to the process which involves a one-month delay to the final 5YAMS being submitted to ORR. In particular, our board will consider the following changes:

- Delaying the final 5YAMS submission from 31 May 2019 to 1 July 2019 and otherwise retaining the existing milestones.
- Eurostar's alternative proposal, which involves delaying the final 5YAMS submission from 31 May 2019 to 1 July 2019, delaying the publication of the Draft Determination from 30 September 2019 to 14 October 2019 and otherwise retaining the existing milestones.

See the current timetable reproduced in the annex to this letter for reference.

We note that the above options would involve HS1 agreeing to extend Eurostar's opportunity to make representations before the final 5YAMS is submitted to ORR, but that they would allow Eurostar less time than adding the additional step in the process referred to above. Eurostar's alternative proposal would also compress the later stages in the process by two weeks and this would be likely to have at least some impact on other stakeholders (such as by reducing the time for public consultation or for HS1's submission of any final 5YAMS modified following the Draft Determination), if there is no change to the other stages.

We consider that any change to the process involving a one month delay to the final 5YAMS submission would have a material impact on our existing workplans and will consider further whether this could reasonably be accommodated.

Should any stakeholders have any further views on changes to the PR19 process, including in particular relating to the options set out above, please inform us by no later than 5pm on Monday 15 April 2019. Our board will consider any views alongside views provided to us previously and will consider the different options which have been proposed before reaching a decision.

ORR also acknowledges that the position around the UK's exit from the EU continues to develop and that the UK government requested a further extension to the period for departure on 5 April 2019. Should stakeholders (including Eurostar) have any views on the impact of the developing position on the appropriateness of any change to the PR19 process, please inform us in the timescale set out above.

ORR will publish all such correspondence on its website.

In the meantime, all stakeholders should continue to operate on the basis of the current timetable, provided that Eurostar and HS1 should also operate on the basis of the additional step set out above pending our board's reconsideration of these issues later this month.

Yours sincerely



**Graham Richards**

## Annex

Activity	Concession Agreement requirement	Date
<b>Consultation and development stage</b>		
<b>ORR publishes its initial PR19 consultation</b>	<b>This must occur at least 30 months prior to the end of CP2.</b>	<b>28 September 2017</b>
Consultation period on ORR's first consultation document closes.		10 November 2017
<b>ORR issues its Periodic Review Process Document, thus notifying HS1 Ltd and stakeholders of the process it intends to adopt for the conduct of the next Periodic Review.</b>	<b>This must occur at least 26 months prior to the end of CP2.</b>	<b>30 January 2018</b>
HS1 Ltd prepares its plans in conjunction with its customers and stakeholders		Throughout 2018
<b>Five Year Asset Management Statement (5YAMS) Consideration Stage</b>		
<b>HS1 Ltd submits draft 5YAMS to ORR and commences formal public consultation.</b>	<b>This must occur at least 13 months prior to the end of CP2.</b>	<b>By 28 February 2019</b>
<b>HS1 Ltd shall produce and submit to ORR the Final 5YAMS.</b>	<b>This must occur at least 10 months prior to the end of CP2.</b>	<b>By 31 May 2019</b>
ORR scrutinises the finalised plans		May – Sept 2019
<b>ORR to issue Draft Determination and commence public consultation.</b>	<b>This must occur at least 6 months prior to the end of CP2.</b>	<b>By 30 September 2019</b>
<b>Final date for HS1 Ltd to revise the Final 5YAMS including making changes needed to address deficiencies identified by ORR, submit additional information or revise existing information.</b>	<b>This must occur at least 4 months prior to the end of CP2.</b>	<b>By 30 November 2019</b>
<b>ORR to issue Final Determination.</b>	<b>This must occur at least 60 business days prior to the end of CP2.</b>	<b>By 7 January 2020</b>
<b>Implementation Stage</b>		

<b>HS1 Ltd submits revised Final 5YAMS in line with ORR Final Determination.</b>	<b>This must occur within 20 business days of ORR's Final Determination.</b>	<b>Latest 4 February 2020</b>
Implementation of PR19 determination and start of CP3.		1 April 2020