

Responses to consultation on Schedule 4 notification factors

Industry Stakeholder	Pack Page number
Abellio UK	2
Arriva	5
Arriva Rail North (Northern)	9
CrossCountry	12
Department for Transport (DfT)	16
First Group	18
Govia Thameslink Railway	23
Heritage Railway Association	26
Network Rail	27
Nexus	36
Rail Delivery Group	39
Southeastern	46
Stagecoach Group and Virgin Trains	48
Transport for Greater Manchester	50
Transport for London	55

The Culzean Building, 5th Floor, 36 Renfield Street, Glasgow, G2 1LV

Office of Road and Rail
One Kemble Street
London

Date: 26 January 2018

Reference: Abellio UKs Response to the Consultation on amending Schedule 4 notification factors.

Introduction

This submission provides a specific Abellio UK response to the above consultation.

At this stage we believe that neither proposed option is fit for purpose and requires further work to be undertaken to understand the impact either change would have on the industry.

Abellio UK Approach

In our approach to this consultation, we have looked at the current incentives on Network Rail to plan possessions in a timely manner and evaluated each option, including 'do nothing' on its own merit.

Our Key Priorities from the Consultation Documents

We believe that neither option should be adopted at this stage, further work should be carried out to understand the implications of recalibrating notification factors.

The reasons we believe this to be the best course of action are as follows:

1. Equal Early threshold and Informed traveller threshold notification factors.

Under both Option 1 and Option 2, Early threshold and Informed traveller threshold notification factors are equal. We believe that this will drive notifications currently received prior to D-26 to T-22. In real terms, this condenses a Train Operator's workload by four weeks; this will have an impact on train planning and rostering teams, who currently work to D-26 timescales.

This presents an increased risk to Train Operating Companies, whilst incentivising Network Rail for later notification; any Schedule 8 related risk for cancellations or delay minutes due to planning errors, in tighter timescales, would also be TOC responsibility.

Abellio Group
The Culzean Building
5th Floor
36 Renfield Street
Glasgow, G2 1LV

www.abellio.com
tel: +44 (0)141 555 4764
fax: +44 (0)20 7430 2239



Having a stable plan at CPPP stage is critical; we believe that discounts after this stage would be incredibly detrimental to Train Operators, as it encourages shorter planning time scales, which will lead to inefficient plans and potentially more expense, not adequately compensated under this regime, in terms of unit miles, traincrew costs and bus arrangements.

2. Schedule 4 does not adequately compensate for cancelled possessions.

Work undertaken by a Train Operator to re-plan work for facilitation of a possession is not recognised by current mechanisms or the proposed options in this consultation.

Abortive work required within Train Operators when a possession is cancelled, results in no compensation. A train Operator is then required to make the decision to undo the engineering timetable or continue as planned, depending on the time limits presented.

A late cancellation of the possession releases Network Rail from the current Schedule 4 compensations and we believe that this is not being addressed in this consultation.

3. Schedule 4 does not adequately compensate for incomplete work in possessions.

In a situation in which Network Rail fails to complete the work content of a planned possession, due to a potential overrun scenario, a Train Operator is rarely sighted on this limited work content achieved versus plan. This then leads to a further possession request and thus doubling the overall Schedule 4 costs for a possession, but the compensation is lost as the timescales for the repeat possession could potentially be within early notification timescales.

4. Third party contractors are not incentivised appropriately under this regime.

Third party contractors often 'block book' more possessions than required, as much as 12 months out, regardless of requirement. Under this regime, Network Rail are not incentivised to validate the requirement or necessity of works, due to notification discount factors being part of the business as usual process.

We believe that amending notification factors, without addressing this issue, will allow this practice to continue.

5. Financial neutrality for current franchisees

There is an impact on current franchises, if Network Rail change their behaviour. How will we ensure that a Train Operator is held financially harmless? This potentially increases workload within a Train Operator to ensure they are adequately compensated.

It would be useful to have worked examples from Network Rail on how they believe implementing either Option would alter current working practices. This will allow the industry to determine the extent of the impact of these changes, which is not currently known.

PAPER ENDS.



PR18 Consultation
Office of Rail and Road
One Kemble Street
London
WC2B 4AN

12th February 2018

Arriva Response to ORR's Consultation on amending Schedule 4 notification factors and an update on the financial framework

Context

This letter responds to the ORR's consultation on amending Schedule 4 notification factors and an update on the financial framework. The response is provided on behalf of Arriva plc, its subsidiary Arriva UK Trains Limited and its wholly owned train operating companies (TOCs), Arriva Rail London Limited, Arriva Rail North Limited, Arriva Trains Wales/Trenau Arriva Cymru Limited (ATW), Grand Central Rail Company Limited, The Chiltern Railway Company Limited (CR) and XC Trains Limited (XC). Arriva is a wholly owned subsidiary of Deutsche Bahn AG (DB AG). However, individual Arriva businesses will be submitting their own additional responses reflecting their local experiences of the issues arising from possession planning.

Arriva views the PR18 process as a significant opportunity to ensure that the structure and processes of the rail industry deployed in CP6 are aligned to the delivery of shared industry objectives; particularly safety, efficiency, growth and strong performance. It is also essential that the outputs that the industry delivers meet the needs and expectations of rail users and funders. We therefore welcome the opportunity to respond to this consultation and are pleased to engage in wider industry dialogue to help develop an efficient customer focused incentive regime for CP6.

Arriva has also played an active part in the Rail Delivery Group (RDG) work on PR18 and endorse the response provided to this consultation by RDG.

Arriva plc
Lacon House
6th Floor
84 Theobalds Road
London WC1X 8NL

Tel +44 (0) 20 38 882 0400

www.arriva.co.uk

Throughout the PR18 process, Arriva has understood that the priority areas to be addressed were associated with the move towards Route based Regulation and the establishment of a National System Operator as key structural changes to support the delivery of the industry's objectives. As noted in several previous responses to ORR's PR18 consultations, Arriva feels that these are significant changes which will require major efforts if they are to be implemented effectively. While Arriva notes that a review of Schedule 4 notification factors was suggested in ORR's December 2016 consultation on improving incentives with the aim of enabling Network Rail to plan possessions more effectively, it is unfortunate that this topic is only being addressed in detail at this late stage of the PR18 process. Given that this is a matter that impacts directly on operational processes, in order for any changes stemming from this consultation to be implemented for the start of CP6, urgent work is therefore required to finalise the arrangements for the Schedule 4 regime. It is possible that amendments to the Network Code may also be required.

Arriva believes that Schedule 4 notification discount factors and their associated thresholds have two equally important roles with regard to the efficient planning of possessions:

- To ensure train operators are appropriately compensated for the financial consequences of planned disruption, including the impact on revenue.
- To incentivise Network Rail to plan possession activities effectively - aiming to get this correct first time without a requirement for further changes that impact on the processes to develop timetables.

Arriva has concerns with the options proposed within the consultation document as they underestimate the importance of the second role and focus too heavily on the impact of customer behaviour on train operator revenue loss. Arriva acknowledges the analysis undertaken by AECOM informing the consultation document, indicating that a higher proportion of customers plan journeys closer to the time of travel than previously thought. However, for passengers who do depend on the availability of timetables and tickets being available for sale 12 weeks before travel (T-12), any worsening in the industry's delivery in this area will have a material impact.

Arriva is concerned that the options as proposed risk materially worsening the industry's performance in developing timetables with potentially negative consequences for:

- The cost of undertaking this important activity as a result of rework,
- Operational performance delivery as amended timetables are developed in shorter timescales than normal on top of existing workload
- Passengers with published timetables being withdrawn and then replaced after tickets have been purchased and journey's planned. This was highlighted recently by Transport Focus in an important and data-driven report on this topic.

Arriva does recognise that the current arrangements in Schedule 4 may incentivise Network Rail to notify details of possessions too early at a time when delivery arrangements for the work to be undertaken in the possession have not actually be finalised. This runs the risk of creating the need for later changes as these details are developed.

Therefore, Arriva would support the merging of the current early threshold (T-26) and the informed traveller threshold (T-22). However, in order to effectively achieve this, the industry would have to be resourced to support the compressed planning timescales leading to higher planning costs. Arriva would expect that the notification discount factor associated with the merged threshold would be properly calibrated but is not convinced that this would result in the compensation for the informed traveller threshold being considerably lower than current levels as suggested in the consultation document.

Arriva also observes that, if Network Rail finds it necessary to amend the possession plan after the informed traveller threshold (T-22), there is no incentive provided in the current Schedule 4 regime to encourage Network Rail to provide notification of this requirement as early as possible or in any structured way aligned with the timetabling process. Network Rail may instead be motivated to focus its efforts in optimising the arrangements for delivering the work in the to be amended possession.

Any change to timetables caused by changes to possession activity is severely detrimental to passengers, leading to inconvenience and uncertainty that reduces the attractiveness of rail compared to other transport modes. This is particularly the case if timetables are changed after they have been published and tickets have been sold for specific journeys. Such unexpected changes also result in reputational damage for operators and the wider rail industry. At the same time this necessitates the recommencement of resource-intensive work to develop and resource amended Short Term Plans, including diagramming units and train crew, as well as to plan rail replacement operations and communications activity. This re-planning work has a major financial impact on Arriva's businesses over and above the revenue related level of compensation received through the Schedule 4 regime. Such reworking also introduces a significant level of additional risk to the process, potentially severely compromising the quality of the final plans.

In this context, Arriva would support the introduction of an additional Schedule 4 threshold after T-22. However, Arriva would not support this new threshold being at T-14 based only on a consideration of passenger revenue impacts as this neglects the cost and disruption associated with re-planning which increase the later the notification of changes to the possession plans are notified. In addition, a T-14 threshold might institutionalise late notice possession changes would result in definite breaches of the informed traveller timescales with the consequent impact on passengers.

Therefore, Arriva would support further work being done in this area building on existing industry workstreams including those being led by the Operational Planning Strategy Group (OPSG). This work should ensure that any revision to the structure of thresholds is streamlined with industry timetable planning timescales, including those described by Part D of the Network Code.

Arriva notes that ORR expects the compensation to be paid for late changes to possession plans to be "slightly higher than in CP5". Arriva is concerned that, in reaching this provisional conclusion, ORR has not taken full consideration of the additional costs that fall on operators associated with the inevitable re-planning, emergency communication to passengers.

Further work is clearly required to finalise the calibration of the notification discount factor for any new late notice threshold. As well as reflecting passenger revenue loss, this must take into account

additional operating costs and the aforementioned resource-intensive incremental additional re-planning costs associated with the changes required. Arriva would not expect Network Rail to include the additional compensation costs to operators caused by triggering the new “late notice” threshold in the calculation of the Schedule 4 Additional Charge Supplement as to do so would involve Network Rail’s customers funding its failures.

Arriva remains committed to working with the industry to provide accurate information to customers regarding possessions. Maintaining the strength of the Schedule 4 regime as an incentive for Network Rail to avoid late notice changes will help reduce industry workload associated with re-planning activity. This will support the development of higher quality and more resilient timetable plans. It will also improve the stability of Network Rail’s engineering workbank, enabling more efficient use of resources determined under the CP6 regulatory settlement.

Yours sincerely

A handwritten signature in black ink, appearing to read 'R. McClean', with a long horizontal flourish at the end.

Richard McClean
Managing Director
Grand Central Rail

PR18 Consultation
Office of Rail and Road
One Kemble Street,
London
WC2B 4AN

9th February 2018

Arriva Rail North Ltd (ARN) Response to ORR's Consultation on amending Schedule 4 notification factors and an update on the financial framework

Context

ARN is working to deliver an ambitious transformation agenda. This features an additional 2,000 services per week by December 2019 and the introduction of 98 new trains, combined with vehicles cascaded from the wider network. This major improvement will be realised through strategic infrastructure enhancements in the North of England, including the Northern Hub and North West Electrification Programme schemes. In the context of this transformative change, our customers are facing unprecedented levels of disruption due to planned engineering works.

ARN views the PR18 process as crucial to ensuring that the structure of the rail industry in CP6 is aligned towards the delivery of shared objectives; notably efficiency, growth and strong performance. We welcome the opportunity to respond to this consultation and are pleased to engage in wider industry dialogue to help develop an efficient customer led incentives regime for CP6. We also endorse the response provided by our parent company Arriva.

ARN notes that Schedule 4 notification factors were indicated to be an area for improvement as an incentive for Network Rail to plan possession early within ORR's December 2016 consultation on improving incentives on Network Rail and train operators. Understanding the shift towards regulation at the Network Rail Route and System Operator level being regarded as a primary priority for the industry PR18 process, it is unfortunate that the notification factors are being addressed in detail at this late stage. In order for any changes stemming from this consultation to incentivise positive behavioural change in the lead up to and during CP6, urgent work is required to finalise the arrangements for the Schedule 4 regime, along with any associated changes to the Network Code if required.

ARN believes Schedule 4 notification factors have two equally important roles as we move into CP6:

- To ensure train operators are adequately compensated for the financial consequences of planned disruption, including the impact of customer behaviour on revenue loss.
- To incentivise Network Rail to effectively plan possession activities correct first time, without a requirement for any further changes at T-26 or beyond.

ARN has concerns with both options 1 and 2 as set out within the consultation document as they underestimate the importance of the second role. Both focus too heavily on the impact of customer behaviour on train operator revenue loss. By doing this the options risk materially worsening the incentive qualities of the notification factors.

ARN acknowledges the outcome of the analysis undertaken by AECOM informing the consultation document, indicating that a higher proportion of customers plan journeys closer to the time of travel than previously thought. One example stated was that only 23% of customers surveyed had planned

their journeys more than two weeks in advance. ARN operates a diverse network covering inter-urban and regional journeys over long and short distances. It is therefore not straightforward to clearly correlate the findings of this research with our own operations. With the introduction of its high quality, long distance Northern Connect network in December 2019, ARN projects that advance purchase will continue to grow as a proportion of its revenue. This will be constituted by an increase in tickets purchased from the time of their publication at T-12, up until the day of travel.

Option 1

ARN does not support leaving the time thresholds the same whilst amending the notification factors in line with the research without further work being undertaken into this area. The consultation document does not address the detrimental impact of reducing the notification factor applicable after T-22 on Network Rail's behaviour.

Network Rail's approach towards possession planning in CP5 is weakened by the absence of a cohesive strategy to plan engineering access more proactively and efficiently. This reduces the stability of the overall work bank. During CP5, ARN and its customers have felt the impact of major programme delays, manifested through proposals for late notice possessions, late notice changes to possessions and cancelled possessions made following CPPP publication at T-22. In the context of the further delay to the NWEF Phase 4 electrification scheme, the notification in December 2017 for additional weekend blockades on the Bolton Corridor commencing from January 2018 is an example of this.

Any late notice possession or change to agreed possession activity or footprint is severely detrimental for our customers, particularly when published timetables must be revised after tickets have been purchased and journeys planned. This leads to inconvenience and uncertainty that reduces the attractiveness of rail compared to other transport modes. It also results in reputational damage for our business and the wider industry. At the same time this necessitates the recommencement of resource-intensive work to develop and resource amended Short Term Plans, including diagramming units and train crew, as well as plan rail replacement operations and communications activity. This re-planning work has a major financial impact on our business over and above the level of compensation received through the Schedule 4 regime. Such reworking also introduces a significant level of additional risk to the process, potentially severely compromising the quality and performance of the final plans.

ARN strongly believes that reducing the amount of compensation Network Rail must pay to train operators as a result of changes to possession plans after T-22 as proposed under Option 1 will reduce its incentive to make no further changes after this date. This will also fail to increase the incentive to plan possessions correctly first time before T-26.

Option 2

ARN is concerned that ORR's proposal for Option 2 will have the same affect in diluting the incentive quality of the notification factors for Network Rail, and will therefore not ultimately help to reduce the impact on our customers and our business as a result to late notice changes to possessions.

Whilst Option 2 couples the notification factor thresholds with informed traveller timescales, it is unlikely to result in a reduction of late notice changes to possessions. Through reducing compensation to operators resulting from changes made post T-22 but prior to D-14, introduction of a new threshold at T-14 risks increasing the propensity of Network Rail to make a greater number of late notice changes between T-22 and T-14. This is the case as the financial motivation for possession plans to be finalised by T-22 is reduced compared to in CP5.

Noting the inclusion of T-14 as a threshold reflects analysis of customer behaviour along with recent wider industry research, ARN does believe there is merit in including the additional threshold. Though further work is required to assess whether T-14 is early enough for operators to finalise revised timetables for publication in industry systems by T-12. The consultation document has not addressed however that the addition of this threshold would be counter-productive by failing to stimulate an improvement in Network Rail's possession planning strategy in CP6.

ARN would therefore only support Option 2 if this issue was resolved through existing notification factors remaining the same, and the additional threshold was assigned a factor of 0.95. Through the notification

factors at the T-26, T-22 and potentially T-14 thresholds being progressively raised to 0.95, the existing incentive on Network Rail in CP5 not to make late notice changes post T-22 would be preserved. At the same time, Network Rail would also be encouraged to take greater cognisance of informed traveller timescales in order to prevent journeys being affected subsequent to advance purchase.

It is important that the implementation of any proposed changes does not create unintended consequences, which would ultimately be felt by customers. This is particularly relevant when considering the impact of timetables published in line with the informed traveller timescales at T-12 which must be re-planned or withdrawn. Work is required to ensure any revision to notification factors is streamlined with industry timetable planning timescales, including those described by part D of the Network Code.

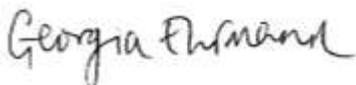
Further work is also required to finalise the calibration of the notification factor for any new threshold, and allow this to inform the calculation of the CP6 Access Charge Supplement, which must be based on the 'early' threshold of T-26. As well as reflecting passenger revenue loss, this must take into account additional operating costs and the aforementioned resource-intensive incremental additional re-planning costs associated with the changes required.

Conclusion

If ORR is unable to further develop a revision to Option 2 in the manner set out above, ARN supports the Do-minimum option outlined within the consultation document. This is the case as in the form set out by the consultation, neither options 1 or 2 adequately satisfy both of the two important roles of Schedule 4 notification factors. Specifically, both underweight their importance as an incentive to stimulate behavioural change.

ARN remains committed to working with the industry to provide accurate information to customers regarding planned possessions prior to D-26. Maintaining the strength of the notification factors as an incentive for Network Rail to avoid late notice changes will help reduce industry workload associated with re-planning activity. This will support the development of higher quality and more resilient timetable plans. It will also improve the stability of Network Rail's engineering workbank, enabling more efficient use of resources determined under the CP6 regulatory settlement.

Yours Sincerely



Georgia Ehrmann
Track Access Manager

12th February 2018

PR18 Consultation on amending Schedule 4 notification factors

Introduction

CrossCountry (XC) welcomes the opportunity to comment on the consultation to amend schedule 4 notification factors as published in December 2017.

XC endorses the overall response submitted by Arriva plc and would like to further expand upon why we believe that changes outlined within both Options in the consultation will compound poor behaviour around booking of possessions rather than improve upon it. XC therefore support the status quo for Schedule 4 as it currently operates. Below is summary of why we support maintaining the current arrangements.

a) Early booking of and subsequent impact of cancelling possessions

An underlying concern cited as reported in research during 2015 was that the notification factors incentivised Network Rail to book possessions too early, prior to the point that it had planned the possessions in sufficient detail. This is quoted as having resulted in planned possessions being cancelled at a later date and work rescheduled.

In the experience of XC, it is rarely the notification factor of Schedule 4 that influences the behavior to book possessions too early, rather it is the need to 'get in first' from a national perspective to secure scarce resources such as wagons and kirow cranes, and also to ensure that from a national cross route boundary perspective that other possessions which come later and maybe on the diversionary route which is required to be utilised by the 'original' possession will be second in the queue in terms of approval.

XC does however agree that possessions that are cancelled are disruptive to passengers and operators, however of the disruption is dependent on when the possession is cancelled. If the cancellation occurs at TW26 or earlier, it will be of little impact to the operators and of none to the passengers. If the cancellation occurs between TW13 and TW26, it will disrupt operators but rarely passengers. Lastly any cancellation which occurs post TW13 will be of growing disruption to both operators and passengers, with the impact increasing the closer the cancellation occurs to TW1.

b) The train planning process

Both the presented options are described as increasing Network Rails incentives to plan possessions in accordance with passenger's needs. Whilst XC are skeptical as to the accuracy of the AECOM report findings on passenger behavior whilst planning and booking journeys (we would like clarity on how the sample of respondents is split between week day and weekend travelers, as the majority of possessions occur at the weekends"), we must challenge the rationale behind Option 2 which seeks to effectively create a longer period of time for Network Rail to plan its possession activities.

Option 2 works on the basis of the AECOM report which 'shows' that most passengers do not plan and book their journeys until 4 or 5 days before travel, and that is therefore acceptable for Network Rail to plan possessions for which the resultant train plans are not then published until approximately TW1. The logic suggested by a new notification factor at TW14 is that train planning activity required by both Operators and Network Rail's System Operator, can be entirely undertaken in a 13 week period. However in reality this is not possible, as it only takes cognizance of some of the purely contractual elements of the process as shown in the table below, and fails to take into account any of the 'Operator only' train planning activity which takes place.

TW-	Activity
TW26	Possession published in the Confirmed Period Possession Plan
TW22	Network Rail issues capacity / timetable studies which inform operators how they are required to amend their services
TW18	Operators bid train alterations to Network Rail
TW14	Network Rail "offers" amended services to Operators

TW13	Operators respond to the “offer”
TW12	Amended train plans published to downstream systems and available to passengers to plan journeys / book tickets

The table above clearly demonstrates that the contractual elements of the train planning process take 14 weeks, meaning that the new notification factor proposed under Option 2 may risk publication beyond when most passengers are claimed to be planning / booking their journeys.

What is not shown by the table, nor accounted for under Part D of the Network Code, are the Operator only activities that must also take place to undertake diagramming of both rolling stock / train crew and purchasing of Rail Replacement bus operations. Those activities do not in all cases begin in parallel with the timeline shown above, meaning a further period of time is required to complete those activities. It is of course achievable in an emergency situation to rely on an Operators planning teams to reduce the time taken to perform all elements of the process, however this carries inherent performance risks.

XC also observe that on page 21 of the consultation, paragraph 3.12 refers to Network Rail advising Operators about capacity between T22 and T12, however this is factually inaccurate as under Part D of the Network Code Network Rail have an obligation to issue capacity / timetable studies which inform operators how they are required to amend their services at TW22. Further to this in paragraph 3.13, an assumption is made that information would be available to passengers at TW2, however this fails to recognise that some System Operator route teams refuse to process late train alterations until TW1.

Due cognizance of Network Rail’s System Operator resource should also be given. If the process as dictated by Part D has been correctly adhered to, and a late possession request then materializes for the same route and week in question, then both Operators and Network Rail will effectively be doubling the resource required to deliver that timetable as all the original work undertaken prior to the late access request becomes null and void. This has far reaching consequences around performance and quality of output, and future workload requirements.

c) Management of late possession changes

The process as defined within Part D of the Network Code for changes to the required possessions taken has long since failed to reflect either the reality of how change is negotiated, nor the volume of change occurring. XC also has a perhaps unique view of how late possession change has been managed post devolution of the Engineering Access Process from the System Operator to the Route teams. Whilst not the subject of the consultation, it should be noted the current process is not robust or reflective of reality, and would need to be greatly improved were Network Rail able to plan possessions for longer at a lower notification factor (under both Option 1 & 2) as the amount of late change to possessions would presumably increase. XC has concerns that if the possession planning process were effectively carried out much later, the current approach to National de-confliction of possessions to ensure both sufficient critical resource, and availability of diversionary route capacity, would no longer be fit for purpose (as it primarily takes place at approximately TW88 and TW66). XC observes there seems to be no current national approach to de-conflicting changes to possessions post D26.

Whilst there has recently been a working paper produced by NTFOG and approved by OPPG, which recommends a new approach to managing the late change process (accepting that change is inevitable) there remain two key elements for which the paper does not detail an implementation plan, those being that the train planning community as a whole is sufficiently resourced to cope with late possession change, and that there be a national process for managing late change with input from the System Operator.

d) The need for late possession change

XC questions the need to allow Network Rail more flexibility to plan possessions at a lower cost for a longer time period. The causes for late possession change can be largely split into two categories:

- 1) Infrastructure maintenance driven (i.e. defects)
- 2) Enhancement / project related

In the case of (1) XC observe that most (if not all) Network Rail routes operate a cyclic maintenance regime based on regular inspections and patrols, followed by pre agreed windows of possession time to carry out routine maintenance tasks as well as address any defects discovered during inspections. This is supported by the following excerpt from the Wessex Strategic Business Plan (SBP) for CP6:

“We have constructed our access plan to take account of the following priorities.

- ☑ Planned major enhancements*
- ☑ Access to support the phased delivery of Feltham Resignalling*
- ☑ Cyclical maintenance access*
- ☑ Dated S&C renewals*
- ☑ Other renewals*

In the event of the high output campaigns proposed as options being funded in the determination these would be delivered in midweek nights with focus on areas of the route proven to support sufficient access to deliver a valuable programme.

We will use an integrated workbank tool to support delivery partners in optimising planning decisions over the control period through understanding other planned work and therefore optimise access and schedule 4 decisions.”

Some routes have also cited a need to reduce late possession change within their SBP submissions for CP6.

Given the examples shown above, XC suggests that possession change driven by maintenance activities is currently very low and should remain as such with the strategies cited.

In the case of (2), this is symptomatic of a much wider problem within the Rail Industry in terms of planning and delivering enhancement schemes. The issues that this widespread inability that the Industry has to deliver enhancement schemes ‘on schedule’ has further reaching implications than the impact to Schedule 4 payments (such as the ability to accurately timetable service interventions reliant on delivery of the enhancement). The publication of the Bowe Report in November 2015 examined the reasons behind the failures in CP5 and of importance to this consultation is this excerpt:

“planning processes, which had been thought to have worked successfully at the previous control period, have been shown to be inadequate in the face of the scale and complexity of the CP5 programme – including, very importantly, proposed electrification works on a scale not attempted before in the UK”

XC observes that having identified poor planning as reason for failure to deliver enhancement schemes on time and to budget in CP5 (which in turn has vastly increased the amount of late possession changes), that it would be perverse to allow Network Rail easier and less costly access to amend & plan possessions, rather than attempting to incentivize behaviors which go towards addressing the excerpt from the Bowe report above, such as the recommendation below:

“Ensuring significantly more robust program governance and oversight of the planning process, with clarity around schemes at all stages of development, and considering whether bespoke arrangements for major and complex elements of the enhancements program should be more widely used”

Further work is clearly required to finalise the calibration of the notification discount factor for any new late notice threshold. As well as reflecting passenger revenue loss, this must take into account additional operating costs and the aforementioned resource-intensive incremental additional re-planning costs associated with the changes required. Arriva would not expect Network Rail to include the additional compensation costs to operators caused by triggering the new “late notice” threshold in the calculation of the Schedule 4 Additional Charge Supplement as to do so would involve Network Rail’s customers funding its failures.

Arriva remains committed to working with the industry to provide accurate information to customers regarding possessions. Maintaining the strength of the Schedule 4 regime as an incentive for Network Rail to avoid late notice changes will help reduce industry workload associated with re-planning activity. This will support the development of higher quality and more resilient timetable plans. It will also improve the stability of Network Rail’s engineering workbank, enabling more efficient use of resources determined under the CP6 regulatory settlement

Yours sincerely,



Joanna Davey

Head of Track Access and Possession Strategy



Department for Transport

By email

PR18.Schedules4and8@orr.gsi.gov.uk

PHILLIP WEST
DIRECTOR, RAIL STRATEGY, SECURITY AND ONE
RAILWAY
DEPARTMENT FOR TRANSPORT
3/13 GREAT MINSTER HOUSE
33 HORSEFERRY ROAD
LONDON SW1P 4DR

12 February 2018

Dear Sir/Madam,

Thank you for giving the Department for Transport the opportunity to comment on the ORR's consultation on amending Schedule 4 notification factors in Control Period 6 (CP6).

Consistent with the DfT's Strategic Vision for Rail, DfT is strongly supportive of taking steps to encourage Network Rail and train operators to work more closely together in the best interests of passengers and other customers. This includes steps to minimise disruption and/or provide appropriate notice to passengers, so they can adjust their travel plans around the disruption. We therefore support the ORR's approach to using passenger awareness information as a foundation of the analysis underlying the options.

After careful consideration of these options, we consider that the **do nothing** option would be a missed opportunity. With respect to the options for change we consider that **Option 1** has material benefits, providing Network Rail with stronger incentives to plan possessions in accordance with passengers' needs and incentivise better planned possessions. With respect to **Option 2**, we note the potential benefits for passengers. However, we note the potential issues identified by the ORR. We therefore consider that Option 2 should only be pursued where the ORR is able to obtain sufficient assurance from the consultation process that the potential unintended consequences set out in Table 3.3 are unlikely to materialise in practice, or can otherwise be effectively mitigated. In any event, we would ask ORR to be clear that the approach adopted enables TOCs to be able to place information on their website and enable information to be loaded so that it flows through to the National Rail site, ensuring that affected travellers are, in fact, informed. This is particularly relevant in the light of concerns about discrepancies in the system on known possessions within the T-12 period over the Christmas period, as well as advance tickets not being available for passengers in a timely fashion.

In addition to these issues, we also ask the ORR to give appropriate regard to minimising the net financial impact on Network Rail and train operators of the Schedule 4 regime, as impacted by ORR's proposals (including Option 1). As well as improving the robustness of the possessions regime and the impact on users of the railway, as ORR will appreciate, DfT wishes to minimise the volatility of Government budgets generally; we ask the ORR to take this into account.

Yours Sincerely,

A handwritten signature in black ink that reads "Phil West". The signature is written in a cursive, slightly slanted style.

Phil West
Director, Rail Strategy & Security and One Railway

By email:

pr18@orr.gsi.gov.uk

John Larkinson
Office of Rail & Road
One Kemble Street
London
WC2B 4AN

12 February 2018

Dear John,

Response to ORR's Consultation on Amending Schedule 4 Notification Factors

Thank you for the opportunity to respond to this consultation. This response is made by FirstGroup on behalf of our Rail Division and its train operating companies: Great Western Railway; TransPennine Express; Hull Trains; East Coast Trains Ltd; and South Western Railway (which is a joint venture between FirstGroup and MTR).

FirstGroup is a core member of the working groups established by the Rail Delivery Group (RDG) in relation to the PR18 process, which has spent time reviewing and developing a response to this consultation. We are therefore fully supportive of RDG's response to this consultation and for the avoidance of doubt RDG's views can be interpreted as being reflective of ours. Nonetheless, we want to make some additional comments as we are concerned that the implications of the proposals have not been fully thought through and if implemented have the potential to create a perverse incentive for Network Rail and in doing so damage the planning process and timely provision of information to passengers.

In summary, whilst we support the proposal to have the same Notification Discount Factor (NDF) for 26 weeks notice (T-26) and 22 weeks notice (T-22), we are not supportive of the proposal to include an additional notification factor at 14 weeks notice (T-14) in the manner proposed by ORR. Schedule 4 is a regime designed to ensure that possessions are advised on a timely basis with compensation to operators paid for planned disruption to their services, discounted depending on the notice given. The ORR proposal as set out would mean that NR could be incentivised to miss industry planning timescales which in turn would lead to advice to passengers potentially not being provided until the day before travel. This is because the timetabling process, which is set out in Part D of the Network Code does not have a process for dealing with late advice, so once a deadline is missed there is no requirement to upload information in a timely manner. We are also concerned that the research undertaken by the ORR is not conclusive of supporting the hypothesis of a new NDF at T-14.

We deal with each of these issues in more detail below, starting with the passenger research as presented and then the proposal of revisions to NDFs.

Use of the Passenger Research to Inform New NDFs

The approach for determining passenger awareness proposed by the ORR seems oversimplistic and it is unclear as to whether the research actually supports the proposal. Given that the aim of the AECOM research was to find out when passengers become aware of disruption, it appears the outcomes have been ignored. Whilst we appreciate that there is an issue regarding how much notice the traveller can theoretically have had it should be surmountable for the Disrupted Traveller (DT) survey.

The AECOM report does not, appear to support the ORR's conclusion that either journey planning or ticket purchasing serve as a reasonable proxy for awareness. Indeed, the DT survey suggests that 57% of travellers plan before becoming aware of disruption, and 15% were aware before planning their journey. Given that this survey only covers those who travelled during disruption, it is likely that the numbers becoming aware before planning a journey would in fact be greater, since a proportion will abandon travel. Moreover, given the ability to cancel and, in the case of Advance Purchase products, exchanging/re-booking tickets there is no need to assume that a passenger's response to the disruption will be altered by becoming aware of it after purchasing a ticket. By contrast the ORR consultation explicitly assumes that "for passengers to be able to plan their journey around the disruption ... they need to have information on the disruption prior to or at the point of ... buying their ticket".

In the ORR's calculations, no account has been made for the fact that the DT survey results do not (and cannot) contain details on those potential customers who chose not to travel. In addition, given that it seems likely that those who chose to abandon their journey by rail did not buy a ticket, it seems ambiguous how the Panel survey has captured the details on the ticket purchasing timeline for these people; indeed, using either of these surveys to estimate when travellers are buying their tickets seems to generate a biased sample. There are similar arguments regarding journey planning.

There has been no re-weighting of the data in either sample to match the actual profile of ticket purchasing. The data exists in industry systems to do this, which although not a straightforward exercise would make the survey outputs more relevant.

The proposals are focused solely on passenger awareness, and make no consideration of the revenue value of each passenger. This is important, because the NDFs are applied to the revenue compensation paid to the operator to reflect their loss of revenue. It is clear (and there is data to support this) that, for any given service group, those journeys that are planned/purchased further in advance are on average longer in distance, and thus more expensive. This suggests that simply using passenger awareness will skew the discounts, and make them less relevant to their intended function.

It is unhelpful that the market segmentation employed by AECOM does not align with the PDFH sectors that underpin the calculation of the Schedule 8 payment rate. It would make more sense to align them with the sector splits for Delay Multipliers.

Analysis of ticket sales data indicates that there is some ticket purchasing in advance of T-12. With several long-distance operators opening services at T-24 and beyond, this part of the market cannot be ignored (despite the position in the consultation). If anything, the proposals on NDFs are likely to encourage all/more passengers to plan their journeys earlier "on the off-chance" (even when services are not already open).

It is also concerning that commuters/season ticket holders, are omitted from the calculations in the consultation. It is often assumed that, as regular travellers, these

passengers are more aware of planned disruption. However, it is more likely that they are only very familiar with their “usual” journey, and typically have no interest in changes at other times. It can therefore be difficult to achieve awareness of disruption with these passengers. It should also be noted that, while commuting and usage of season tickets is typically low at weekends (although this is less true on weekday late evenings), the payment rates used by Schedule 4 are based on full-year revenue and so contain a significant proportion of season ticket revenue. As such it seems inappropriate to ignore season ticket holders when determining NDFs.

Proposal for Changes to Notification Discount Factors

The ORR approach of trying to recognise that occasionally there is need for late notice possessions and that passengers need to be advised of these changes in a timely manner is a sound one. However, to introduce a new NDF at T-14 would only serve to create an incentive on Network Rail to advise all possessions later than the industry requirement of 26 to 22 weeks (i.e. T-26 to T-22) when the four-weekly Confirmed Period Possession Plan (CPPP) is published, with no guarantee that the revised timetable will be made available to passengers prior to the day before travel. This is both because Schedule 4 is a possessions advice incentive regime, not a timetable upload regime and because the timetabling process does not legislate for late notice.

Schedule 4 recognises that Network Rail needs to take possession of the infrastructure to undertake works that will disrupt the planned timetable. The regime correctly incentivises Network Rail to do this in a timely manner in line with the laid down Part D timetabling process. This sets out the overall planning process which allows for Network Rail to advise of disruptive possessions both in advance of the permanent timetable being agreed and once that timetable has been agreed (i.e. short-term notifications) at between T-26 and T-22. The proposals that ORR has put forward considers possessions advised at short notice, i.e. after T-26. The Part D process for short term amendments is as follows:

- T-26 to T-22 – Network Rail advice of possession requirements
- T-18 – Deadline for operators to bid amendments to Network Rail
- T-14 – Network Rail offers timetable to operators
- T-12 – Amended timetable uploaded by Network Rail (and therefore advised to passengers)

We recognise that the current Schedule 4 NDFs may incentivise Network Rail to plan for possessions at an early point in their planning process when it may not be clear as to exactly the extent of the work required to deliver a specific outcome. As such Network Rail may therefore over-book possessions at the earliest point to ensure that a more attractive NDF is achieved. Taking this into account alongside the fact that Network Rail produces the CPPP that covers possessions for a four-week period between T-22 and T-26, we are supportive that there should be no difference in NDF for notice provided at T-26 or T-22.

Turning to the proposal for an additional NDF at T-14. If Network Rail wants to take a possession after the T-22 deadline then operators are within their rights to refuse these requests, as they are officially late and outside the Part D process. Under the current Schedule 4 regime Network Rail is not incentivised to make late requests, as this significantly increases the compensation payable under Schedule 4 as the minimum discount applies between notifying at T-22 and 2200 at T-1 day. Nonetheless in some circumstances a late request may be required for operational or other reasons and operators' may agree to the possession. However, Part D does not legislate for what happens when deadlines are missed. So, taking the ORR proposal, if Network Rail was to

request a possession at T-14 and an operator agrees, there is no deadline by which it needs to submit a bid, although for its own licence, revenue, reputation and passenger advice requirements it is incentivised to do so as quickly as possible. Once the bid is submitted Network Rail is under no requirement to upload that timetable at any time before 2200 the day before the timetable is due to operate. This is not only unhelpful for passengers but leads to increased workload amongst operators and Network Rail, and undermines the existing amended timetable process known as Informed Traveller.

With a notification at T-14 it could be construed that there could be an expectation that the amended timetable would still be available on time at T-12. However, given the existing workload to deliver Informed Traveller on a weekly basis and that there is no process in place to turnaround late bids in a timely manner upload is unlikely to happen until much later. The proposal is therefore likely to lead to confusion both for operators but also most importantly for passengers. It also fails to take account of the costs and further disruption associated with re-planning at this stage.

Whilst it is true that operators could refuse these late possessions requests, there are likely to be instances where the possession is critical to a renewal or enhancement project and the operator would be under pressure to accept. The subsequent timetable amendment would then be made after the initial timetable amendments had already been bid to Network Rail and the final timetable may not be uploaded by until 2200 the day before.

The Informed Traveller process is a critical part of the industry's planning cycle and whilst late advice is not desirable, it is sometimes required, and the industry has recognised that for there not to be a process to adequately deal with these situations is not ideal. As such the Operational Planning Strategy Group (OPSG) has begun a workstream to determine how best to deal with late notice advice for amendments to the timetable, and establish a process such that where there is a legitimate reason for late advice, that there is a reasonable timeline for timetables to be uploaded.

We are supportive of the RDG's proposal to establish a Task & Finish Group to consider the process to deal with late notice possessions and the relationship with Part D and Schedule 4. This group would need to work alongside the OPSG workstream and consider the costs and revenue impacts of late notice possessions, as well as the available passenger research, to determine a deadline whereby late notice possessions can be advised with sufficient time to upload amendments to timetables.

Our initial view is that this intermediate point would be after T-22 but would need to be at a sufficiently early stage to allow a period for bidding and upload. Although this needs to be tested against the available data, including advance purchase habits, it does seem that passengers will need to know the available timetable at least 4 to 6 weeks before travel. As such late notice possession requests should probably be advised no later than T-10 and a new NDF could be associated with this point. It would then be reasonable to assume a timetable could be uploaded within four to six weeks. However, it should be for the Task & Finish Group to establish the most acceptable timescales.

It must also be acknowledged that any possession notified after T-22 may not be automatically accepted by the affected operators, and that should the request result in timetable uploads after T-12 it should not be the fault of the operator. This is important given the licence, legal, financial and reputational impacts associated with late advice. It must be clear that for any late possession to qualify for the intermediate NDF (rather than the one that would apply for a possession advised at up to T-1 day) there must be a valid rationale that has been accepted by all parties. This will therefore help to ensure that there

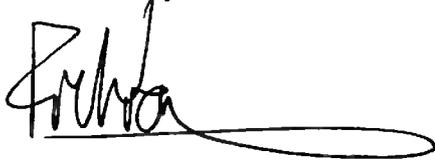
is not a perverse incentive for Network Rail to notify all possessions at this intermediate deadline.

We believe that there is sufficient time and data available for this workstream to be commenced and conclude in time for the recommendations to be included in the ORR's Final Determination in October 2018.

FirstGroup is committed to working with the industry to resolve the issues raised within this response, and to that end has already volunteered to be part of the Task & Finish Group. We support the role that Schedule 4 has in ensuring that timely advice is provided to operators such that passengers can be made aware of amended timetables at the earliest opportunity. The approach that RDG has set, out and that we have reflected on, should help to strengthen this process and ensure that there is a stable basis for planning the significant infrastructure workload of maintenance, renewals and enhancements that needs to be delivered throughout Control Period 6.

Once again, thank you for the opportunity to comment on this consultation. Should the ORR wish to discuss any aspect of this response in more detail please do not hesitate to contact me. We will provide a copy of this response to RDG and Network Rail.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Russell Evans', with a long horizontal flourish extending to the right.

Russell Evans
Policy & Planning Director, First Rail



Office of Rail and Road
One Kemble Street
London
WC2B 4AN

23rd February 2018

Dear Sir/Madam

PR18 consultation on amending Schedule 4 notification factors

Thank you for the opportunity to respond on the consultation on amending Schedule 4 notification factors and for the extension to the deadline.

This response represents the view of Govia Thameslink Railway Limited. Please see below our response to each of the questions:

1. Do you have any comments on our proposed methodology for using the passenger research to update notification factors?

Given the research undertaken by ORR and the conclusion that there is no material impact on passenger when planning or buying tickets at the early threshold (D26) or the informed traveller threshold (T22) we see no viable reason to object to the proposal on the notification factors to be the same for both thresholds.

2. Do you have any comments on option 1, which would update the notification factors? You might want to consider how, if at all, this may affect the timing of possessions and incidence of late cancelled possessions; and the consequences of this for operators and passengers.

In our experience we do not regularly receive notice for late cancelled possessions, it is more that we receive the request for access late. Therefore, we do not necessarily believe that this would have a material impact on current behavior on possession planning ie Network Rail planning to early and cancelling at a later stage.

3. Do you have any further comments with respect to Option 2, which would, in addition to updating the notification factors, introduce a new 14 week notification threshold?

We agree with an intermediate threshold between T22 and 10pm before the day of the possession, as there is no incentive currently in between this timescale to notify operators on access requests.

However T-14 is too late in the process as an operator is unable to act quickly enough in time for the upload of the timetable at T-12. A more appropriate timescale would be at T-18 which would allow operators enough time to react in time for T-12 with amended timetables. An intermediate threshold should be reflected by the timescales in Part D of the Network Code.

We note that RDG has responded on this point with a proposal to set up a Task and Finish Group to consider the possible improvements that could be made, GTR are supportive of this approach as we believe this needs more consideration.

In addition we have reviewed the accompanying discount factor calculations spreadsheet and make the following points:

- The Schedule 4 payment calculation uses the cancellation minutes in Appendix 1 to identify the overall Schedule 8 liability before the application of the notification factor. This notification factor calculation, however uses the late time multiplier, when this should only be applied to weight additional journey times not the curtailment of a service. We believe the correct multiplier should be different for these instances to align it to the PDFH:
 - a) cancellation – the default multiplier across all sectors should be 1.5, which is the uplift applied to the service interval to reflect the additional disbenefit of an unplanned cancellation
 - b) extended journey time – should use the intended delay multipliers to reflect that this is an increase in 'usual' journey time.

Could you the current calculation approach be clarified further?



- Given the recent ORR confirmation of the decision that for London and South Eastern commuter flows the findings of the OXERA study will be applied in Schedule 8, which bypasses the use of delay multiplier, what value will be used instead?

Should you require clarity or want to discuss any aspects of this response please do get in touch.

Yours sincerely

A handwritten signature in black ink that reads "Raj Patel".

Raj Patel
Head of Access and Regulatory

Heritage Railway Association response to Schedule 4 notification factors consultation

We would have preferred an industry review on the planning of engineering work and all the complexities involved, to see if there is a more efficient way of planning and Network Rail paying for engineering works.

We don't view that the introduction of an additional discount factor in the current system, would be effective in making the current system more responsive or efficient. Our preference would be to use the research and the fact that most passengers don't plan their journey a long period in advance to have a single notification factor that allows engineering work to be planned once and effectively. This should be close enough the planning week to allow engineering work to be planned around charter trains.

In these days of the use of electronic devices and the internet we view the relevance of D-26 in advertising timetable changes to passengers as very limited. Probably limited to items such as two track working on 4 track routes, or diversions round the Severn Tunnel for the annual track renewals.

With the volume of renewals, required in the control period particularly track, (which we support) means the volume of planning work required (including re-planning missed work) will mean that the planning will slip closer to the day. This is another reason we would prefer to see the planning work done once off a single timetable version than multiple planning efforts.

Also we consider that one version of the Saturday and Sunday WTT should also aid quality. As at the moment a WTT is effectively 12 or more timetables with the different engineering periods in them thus stretching the WTT timetable planning teams to complete all the necessary work within the time available.

Ian Leigh
Finance Director
Heritage Railway Association



Network Rail's response to ORR's PR18 consultation on amending Schedule 4 notification factors

12 February 2018

Executive summary

Network Rail welcomes the opportunity to respond to ORR's PR18 consultation on amending Schedule 4 notification factors, issued on 18 December 2017.

Schedule 4 compensation, whilst important to Network Rail and the industry, is just one of many factors that Network Rail must consider when planning a possession. For example, Network Rail must also consider the overall costs of the engineering work, and industry planning processes. Therefore, Schedule 4 compensation on its own should not be expected to drive all of Network Rail's decisions in respect of possession planning. Notification factors within Schedule 4 do have an impact on overall Schedule 4 compensation. However, Schedule 8 Network Rail Payment Rates (which are a direct input into Schedule 4 revenue compensation) also have a significant influence over the level of Schedule 4 compensation payable. The industry's focus should also be on ensuring that these Payment Rates are set at an appropriate level to compensate train operators for loss of ticket sales due to Network Rail possessions.

ORR set out 2 options for notification factors in its consultation, which we will refer to throughout this response:

Option 1: updating notification factors based on latest available evidence

Option 2: introducing a new notification threshold at 14 weeks prior to the possession taking place, with updated notification factors

We are pleased that ORR has considered the early Review of Charges work undertaken by industry, through the Rail Delivery Group (RDG), and has sought to review the notification factors within Schedule 4. As ORR is aware, this is one area of the charges and incentives regime which the industry identified as requiring review for CP6. Consistent with the Network Rail view expressed during the Review of Charges, we support ORR gathering new evidence, and using this evidence to inform an update of the notification factors. We consider that it is important that the Schedule 4 revenue compensation paid to train operators is appropriate, up-to-date and reflective of train operators' actual revenue losses, so as to not distort industry behaviours. It is also important to set the Network Rail Schedule 8 Payment Rates at an appropriate level, as these input into the Schedule 4 revenue compensation.

However, we would caution ORR against introducing new thresholds which disrupt industry planning processes. Whilst we recognise that there could be some benefit in introducing a new threshold between the current mid-range and late notice discount thresholds (i.e. between T-22¹ and 10pm the night before the possession), we do not consider that ORR's proposal for a new, 14 week threshold (T-14) would create the right incentives for the industry and could disrupt the Informed Traveller process. We have engaged in initial industry discussions on an appropriate alternative threshold, which are currently focussed on a threshold around T-10. We fully support RDG's suggested next steps in relation to this potential new threshold.

Finally, we support ORR's decision not to change the basis of the Schedule 4 Access Charge Supplement (ACS) calculation and the process for claiming bespoke compensation, for the reasons set out in our response to ORR's December 2016 consultation².

¹ T-22 refers to the date 22 weeks prior to the week of the possession.

² Available at: <https://cdn.networkrail.co.uk/wp-content/uploads/2017/01/Network-Rail%E2%80%99s-response-to-ORR%E2%80%99s-consultation-on-changes-to-charges-and-contractual-incentives.pdf>

Response to ORR's consultation questions

Question 1: Do you have comments on our proposed methodology for using the passenger research to update notification factors?

We welcome ORR commissioning research on passenger awareness of planned disruption, and proposing to use this to inform the notification factors within Schedule 4 for CP6. The current notification factors were last updated in 2006, and passenger behaviour is likely to have changed significantly since then, for example due to the wider availability of real-time data through mobile phones and other devices. Therefore, ORR's research into this area is a valuable addition to the Schedule 4 evidence base.

The methodology for converting the findings from the research into notification factors is consistent with the approach taken at previous Periodic Reviews. We have no concerns with this approach provided that it remains consistent with the recalibration of the Network Rail Payment Rates within Schedule 8. As the Payment Rates and the notification factors are intrinsically linked (as they both rely on the same set of assumptions and parameters in the Passenger Demand Forecasting Handbook (PDFH)) the calculation of notification factors must remain consistent with the calculation of the Payment Rates. The approach to recalibrating Network Rail Payment Rates for CP6 has not yet been formally approved by ORR. It is likely that a new approach to calibrating the Payment Rates will be taken for London commuter services, and also it is possible that the delay multipliers used within the calculation of the Network Rail Payment Rate may be updated. Both of these would need to be reflected in the notification factor calculation to ensure that compensation paid to Train Operators remains appropriate.

ORR's research on passenger awareness of planned disruption relies on the use of surveys to understand passenger behaviours. A typical feature of surveys of this nature is that they tend to be biased. Respondents will typically recall bad experiences of planned disruption more readily than good ones, and as such also have a tendency to overstate their actual behaviours in response to disruption. For these reasons, we expect that the survey results will equally overstate passenger behaviours, such that they would appear to react more extremely to disruption than would actually be the case (for example, respondents may state that they would not travel at all during the disruption, whereas in reality they may actually travel on a different day or via a different route). It is very difficult to quantify the extent of this bias, since there is no up-to-date evidence of passenger behaviours other than the recent surveys. We, therefore, understand why ORR has not taken steps to moderate the results to account for this bias. However, we consider that it is important to recognise that this bias exists, even if this is not acted upon. The effect of this bias will mean that, on average, Network Rail over-compensates train operators for the financial impact of planned disruption. This will be reflected in the ACS that Network Rail charges to fund Schedule 4 compensation, and so the resulting financial impact should be small (it will only affect "marginal" possessions).

ORR states that it has excluded commuters from its calculations of notification factors (paragraph 2.33 of the consultation document). We are not clear whether this means season-ticket holders, or whether this also includes commuters travelling on day tickets and pay-as-you-go tickets (e.g. Oyster). Excluding commuters may mean that Network Rail over-compensates train operators in some circumstances for possessions, as commuters would tend to react less to planned disruption compared to leisure travellers because:

- Commuters often have little choice over how to get to work; and
- Commuters using season tickets are less likely to respond to the planned disruption, at least until their season ticket expires.

For some Service Groups, such as short distance journeys around city centres, commuters will make up a large proportion of travellers. Ignoring the behaviours of commuters in setting the notification factors could mean that the Schedule 4 compensation for these services is likely to be quite inaccurate.

Question 2: Do you have comments on option 1, which would update the notification factors? You might want to consider how, if at all, this may affect the timing of possessions and incident of late cancelled possessions; and the consequences of this for operators and passengers.

Many of our comments expressed below also apply to Option 2 (introducing a new notification threshold, with updated notification factors) due to the significant overlap between the two options. We, therefore, do not repeat these comments in response to ORR's question 3.

As ORR is aware, the industry identified the notification factors within Schedule 4 as an area that required further work during the Periodic Review (PR18). Network Rail strongly supported this view, and we are therefore pleased that ORR has undertaken a substantial review of the notification factors for CP6.

It is important that Schedule 4 accurately reflects passenger behaviours and therefore appropriately compensates train operators for their revenue losses as a result of planned disruption. Passenger behaviours are likely to have changed significantly since the notification discount factors were last updated during PR08 (based on evidence gathered in 2006). We therefore strongly support ORR gathering up-to-date evidence on passenger behaviours when there is planned disruption, specifically in terms of journey-planning and ticket-buying, and using this evidence to inform an update to notification discount factors and thresholds for CP6. We also note that another key input to Schedule 4 revenue compensation is the Network Rail Payment Rates in Schedule 8. It is vital that these are set at the right level to accurately reflect Train Operators' revenue losses in the case of both planned and unplanned disruption in the Schedule 4 and 8 regimes. If the compensation is not reflective of actual lost ticket revenue, this could distort the incentives that the Schedule 4 regime is intended to create. For example, compensation which is too high could cause train operators to be too willing to accept possessions, whereas compensation which is too low could cause train operators to be reluctant to agree to possessions.

We recognise that in the majority of cases the new notification factors will result in a decrease in Schedule 4 compensation payable to Train Operators³. This could mean that Network Rail would struggle to obtain appropriate access to undertake necessary maintenance and renewals work in CP6, if Train Operators decide to dispute plans more readily on the basis of reduced Schedule 4 compensation payments compared to CP5. This issue should be recognised in ORR's impact assessments, as it could represent a serious safety concern if Network Rail is unable to maintain

³ The recalibration of Network Rail Payment Rates in Schedule 8 will also impact on the level of Schedule 4 compensation payable, however the work on this is currently ongoing. It will be important to review the overall level of Schedule 4 compensation payable once these Payment Rates have been finalised.

the network to a suitable standard. We consider that there may be at least two possible ways to address this:

1. Franchise specification. Franchises could be specified to ensure Train Operators allow Network Rail sufficient access to undertake necessary maintenance and renewals work. However, the current franchising timetable will mean that this solution would not be effective for several years to come.
2. Access alliances. Network Rail and Train Operators could work together to optimise whole-industry costs of access by forming 'access alliances'. The focus of these would be on securing access for Network Rail to undertake necessary engineering work in an efficient way, which trades-off the potential cost savings from longer possessions against the additional disruption that this could cause to passengers. One feature of these alliances could be the sharing of cost savings as a result of Network Rail taking longer possessions. Access alliances could be particularly effective for major, long lasting infrastructure projects. However we would need to consider whether this is possible under Network Rail's obligations under the Managing Public Money rules.

Network Rail supports ORR's proposal to set the notification factors at the same level for the early threshold (D-26⁴) and the Informed Traveller threshold (T-22). The current, CP5 arrangement of providing Network Rail with a larger discount for notification at D-26 incentivises Network Rail to notify Train Operators of work before accurate possession plans have been put in place. Other considerations in possessions planning, for example the logistics of getting the necessary equipment to site, may not have been finalised by this date resulting in Network Rail changing its initial plans after the D-26 date has passed. This creates uncertainty for Train Operators and affects their ability to plan effectively. We therefore welcome ORR recognising that this date has little impact on passenger behaviours, and putting in place the same notification factor for the T-22 and at D-26 thresholds. Regardless of the notification factors within Schedule 4, Network Rail continues to have a commitment to provide access information to Train Operators well ahead of any possession occurring. For example, at D-44 Network Rail publishes the final Engineering Access Statement (EAS). While this often won't have detailed possession plans, it does outline when the network will be available for Train Operators to run services, and when Network Rail is likely to require access. In addition to this, at D-26 Network Rail publishes the New Working Timetable, which is Network Rail's statement of train paths that it will provide to Train Operators.

Finally, we note that any change in notification factors will need to be reflected in Network Rail's Schedule 4 Access Charge Supplement (ACS) calculation, such that the ACS appropriately reflects the expected compensation to be paid during CP6.

Comments on impact assessment

ORR's impact assessment of Option 1 compares the notification factors at different thresholds within Schedule 4, and examines the incentive effects of the new notification factors. We consider that the impact assessment should also compare the incentive effects of the updated notification factors with Schedule 8 compensation for on-the-day disruption. Schedule 4 revenue compensation and Schedule 8 are directly comparable, and Network Rail faces a real trade-off between the two for late notice possessions. The late notice notification factors have increased in all cases, meaning that Network Rail now pays more Schedule 4 compensation for these

⁴ D-26 refers to the date 26 weeks prior to the publication of the Working Timetable.

possessions than previously. For services falling into the category “Not London Long Distance”, Network Rail would only receive a 7% discount on its Schedule 8 compensation for notifying the train operators of the disruption. This is unlikely to be a sufficiently strong financial incentive for Network Rail to provide early notice of the possession (although we note that Network Rail faces other incentives to notify Train Operators of availability of the network, such as reputational incentives and doing the right thing for the customer).

ORR states that there are no direct costs to Network Rail of this proposed change to the notification factors. This is incorrect. A change to the notification factors will need to be reflected in Network Rail’s Schedule 4 ACS calculation, and will also require a system update to ensure that the Schedule 4 compensation paid aligns to ORR’s policy for the regime. However, the costs of these changes should be minimal.

Question 3: Do you have further comments with respect to option 2, which would, in addition to updating the notification factors, introduce a new 14-week notification threshold?

Network Rail does not support the proposed introduction of a new 14-week notification threshold (T-14). We consider that the notification thresholds within Schedule 4 should support, or at the very least not disrupt, the industry timetable planning processes.

We are concerned that the proposed 14-week notification threshold could have an unintended detrimental effect on the production of the “Informed Traveller” (T-12) timetable. It is highly probable that the introduction of this threshold would legitimise late notice possessions, which could increase the number of possessions notified at T-14, whilst reducing the number notified at T-22. We are also concerned that the proposed 14-week threshold could create the expectation that possessions notified by this date could be implemented by the Informed Traveller timetable, since the threshold is prior to its publication. However, unless the impact of the possession is minimal with very few other late⁵ notifications at the same time, it is unlikely that Network Rail would be able to incorporate the possession into the informed traveller timetable⁶. Whilst we acknowledge that ORR recognises this, we remain concerned that this date would create an unrealistic expectation that timetables could be amended by T-12. The proposed introduction of a new threshold at T-14 could therefore result in worse outcomes for passengers.

However, we do consider that there could be merit in introducing a new threshold between the current mid-level discount threshold (at T-22) and the late notice threshold (the day before the possession). This could help train operators prepare for late possessions much more readily than if notified the night before. It should also help passengers make more informed choices when late notice possessions are in operation. We suggest that any new threshold is introduced after the Informed Traveller timetable has been published (after T-12), so that this does not create the expectation that the possession can be entered into this timetable. We have been working with industry colleagues, facilitated by RDG, to try to establish an alternative threshold which would encourage increased notice of possessions which have missed the Informed Traveller process. We recognise that Part D of the Network Code may require an update, in order to be consistent

⁵ In this instance, we use late to designate possessions notified after the T-22 threshold.

⁶ This is consistent with the Network Code, which does not prescribe the timescales that must be adhered to in the production of the timetable if a possession is notified to operators ‘late’, provided that the timescales are “reasonable in the circumstances”.

with any new notification threshold within Schedule 4. However, we recognise that making this change to the Network Code could be quite challenging.

The introduction of a new threshold after T-22 would require a contractual change in relation to the D-26 and T-22 thresholds. As specified in paragraphs 9.1 (b) (ii) and 9.2 (b) (i), if the possession does not enter the Informed Traveller timetable (at T-12), unless due to a Train Operator not providing their revised Access Proposal in time, Network Rail would only receive minimum discount for the possession despite when Train Operators were initially notified. This contractual wording would not be appropriate if a new threshold was introduced after T-22.

Comments on impact assessment

As with Option 1, ORR states that there are no direct costs for Network Rail of the proposed introduction of a new notification threshold. The introduction of a new notification threshold would necessitate a change to the system that manages Schedule 4 compensation (S4CS). We estimate that this would require a lead time to develop and test of at least 6 months, although the cost of this change is likely to not be significant in the overall scale of Schedule 4 compensation payments. In addition to this, the new threshold would impact on the overall cost of Schedule 4 to Network Rail, and should therefore be reflected in the ACS calculation. This will require a number of assumptions to be made, since Network Rail does not currently consistently record when train operators are notified of possessions (only which notification factor the possession falls within).

In the impact assessment, ORR notes that the introduction of the proposed T-14 notification threshold will “result in better planning”. We do not agree, as highlighted above. In particular, the introduction of this threshold could lead to planning which is more rushed, and risks the Informed Traveller process being missed more frequently (i.e. for amending the timetable ready for T-12 publication).

Other Network Rail comments

We would like to draw ORR’s attention to changes that the European Commission has made to Annex VII of directive 2012/34. These changes will introduce new thresholds and timescales for the planning of engineering work, applying from December 2018. These thresholds vary depending on the length of possession, and its estimated impact (based on the forecast volume of traffic re-routed, cancelled or replaced). The following table summarises the new thresholds for possessions of a duration between 0 – 7 days (0 – 168 hours). This covers all Type 1 and Type 2 possessions, which are those which are <60 hours and 60 – 120 hours, respectively. The new thresholds corresponding to longer possessions have not been presented below, since these long-lasting possessions would fall under the definition of “Type 3” in the Schedule 4 regime and so be eligible for bespoke compensation.

<i>For a possession between 0-7 days (0-168 hours)</i>				
	Impact (estimated traffic volume re-routed, cancelled or replaced)			
	0-9%	10-29%	30-49%	50%+
Co-ordination	n/a	TW-6.5 months = TW-28 weeks	TW-6.5 months = TW-28 weeks	D-13.5 months = D-58 weeks
Publication	n/a	TW-4 months = TW-17 weeks	TW-4 months = TW-17 weeks	TW-4 months = TW-17 weeks

This new legislation may have implications for ORR’s reasoning behind each of the options set out in the consultation document, and so we would welcome further discussion on this. We consider that the new thresholds detailed in the table above are not sufficiently different from the current industry processes – Network Rail is currently required to publish the Confirmed Period Possession Plan (CP6) at T-26, and this is the basis of the current T-22 notification threshold within Schedule 4. We therefore do not consider that the current thresholds necessarily need to change in light of these changes, but ORR should be mindful of these in setting the Schedule 4 regime for CP6. In setting the notification factors and thresholds for Schedule 4 in CP6, it will be important not to unintentionally incentivise deviations from the new EU directive.

Clarity on contractual wording

Network Rail considers that there are a few areas within Schedule 4 of the Track Access Contract between Network Rail and Train Operators which could benefit from greater clarity. We have set these areas out, below:

- Cancelled possessions. Paragraph 2.9 of Schedule 4 of the Track Access Contract sets out provisions for changes to Restrictions of Use (possessions). However, the Track Access Contract does not specify the length of a cancellation a Train Operator would reasonably require to reinstate its train services. We consider that the contract could benefit from more clarity on this point.
- Easements to Restrictions of Use. The Track Access Contract does not specify the Schedule 4 compensation payable in the case of an easement of a possession. For

example, if Network Rail makes a possession less disruptive, dependent on when Network Rail notifies the Train Operator of this, Network Rail could lose its early notification discount despite the possession being less disruptive than previously anticipated. Furthermore, if the Train Operator requests the easement to the possession, as the Track Access Contract does not provide provision for this, Network Rail could again lose its early notification discount. This creates perverse incentives, whereby Network Rail could pay more Schedule 4 compensation to a Train Operator for a less disruptive possession.

- EBM Payments. Paragraph 4.2 of Schedule 4 of the Track Access Contract sets out the calculations which are used to make payments in relation to cost compensation for rail replacement services and references Annex B to Schedule 4. However the contract does not define the limits to which Annex B should be used and simply references train services. This has caused issues with interpretation and Network Rail's Schedule 4 team currently use the pairings which fall within the Restriction of Use footprint as the applicable pairings. It has been perceived by some that the services affected should be compensated even if they are outside of the restriction, for example an operator could 'thin out' a long distance service and expect compensation for the entire journey.

Nexus response to ORR consultation on amending Schedule 4 notification factors

Nexus is the Tyne and Wear Passenger Transport Executive (PTE) established under the Transport Act 1968 (as amended) and administers funds in order to implement local public transport policies in Tyne and Wear on behalf of the North East Combined Authority (NECA). On 14th April 2014 the NECA was created by Order of the Secretary of State under sections 84, 91 and 93 of the Local Transport Act 2008(a) and sections 103 to 105 and 114 to 116 of the Local Democracy, Economic Development and Construction Act 2009(b). At the same time, the NECA's predecessor body, the Tyne and Wear Integrated Transport Authority (the ITA) was abolished, and its functions, properties, rights and liabilities were transferred to the NECA.

Nexus owns and operates the Tyne & Wear Metro system, which until 2002 ran exclusively on a rail network owned and maintained by Nexus. In 2002 an extension to the system was opened between Pelaw and South Hylton, running on Network Rail infrastructure.

In 1999, Nexus entered into a Track Access Agreement with Railtrack for the access between Pelaw and South Hylton. Due to the unique nature of the access, the Track Access Agreement is bespoke.

Nexus notes that due to the bespoke arrangements in its Track Access Agreement it does not fall within the scope of the PR18 process. However, Nexus considers it important to consider and respond to the PR18 consultations where appropriate.

The impact of Network Rail possessions on the Tyne & Wear Metro are unique, due to the need to co-ordinate these with possessions taking place on the Nexus owned and maintained infrastructure. Since 2010, the number of possessions on Nexus infrastructure has dramatically increased due to our own Asset Renewal Programme which invests over £30m on infrastructure renewal each year. In order to avoid excessive disruption to passengers and ensure that the staffing and replacement transport demands a possession brings can be delivered to the standard that

customers expect, it is Nexus' policy to avoid having two different possessions affecting the Metro at the same time. It is in this context that Nexus' response to this consultation has been developed.

Notification timescales

Nexus' TAA contains bespoke notification timescales. This includes a notification at 46 weeks before publication of the new working timetable, which Nexus would be keen to maintain. For major Nexus infrastructure possessions which require weekday closure of lines, the nature of planning the project and procuring a contractor means dates are set up to a year in advance. Incentivising Network Rail to provide the 46 weeks notification maximises the opportunities to avoid having two major possessions taking place at the same time.

Whilst Nexus' TAA contains bespoke notification timescales, Nexus would be supportive of the introduction of the 14 week timescale, as outlined in option 2. In addition to the significant difference in impact on operators and customers between 22 weeks and a day in advance of a possession that is noted in the consultation paper, it would also align with planning of Nexus infrastructure possessions. Most Nexus infrastructure possessions are typically confirmed at a 12 week timescale, so introducing a 14 week timescale for Network Rail would potentially allow some movement of Nexus infrastructure possessions if any clashes were introduced by a Network Rail possession confirmed around the 14 week timescale.

Notification factors

In relation to the notification factors, Nexus considers its passenger awareness of disruption will likely be different to the AECOM survey. This is reflective of the nature of the Tyne & Wear Metro network, for example:

- The system is more akin to a system such as the London Underground
- Ticketing is different, with season tickets and day tickets rather than 'advance booking' as on National Rail

- Communication of possessions takes place according to the nature and scale of the possession. A 'standard' possession at a weekend would generally be promoted a few weeks beforehand, due to the number of other possessions taking place on the system.

Notwithstanding this, the direction of travel in increasing the notification factors for later notification of possessions is one supported by Tyne & Wear Metro.

Rail Delivery Group

Response to

ORR's consultation on amending Schedule 4 notification factors

Date: 12 February 2018

Rail Delivery Group response to ORR's consultation on amending Schedule 4 notification factors

Organisation: Rail Delivery Group

Address: 200 Aldersgate Street, London EC1A 4HD

Business representative organisation

Introduction: The Rail Delivery Group (RDG) was established in May 2011. It brings together Network Rail and passenger and freight train operating companies to lead and enable improvements in the railway. The purpose of the RDG is to enable Network Rail and passenger and freight train operating companies to succeed by delivering better services for their customers. Ultimately this benefits taxpayers and the economy. We aim to meet the needs of:

- Our Members, by enabling them to deliver better outcomes for customers and the country;
- Government and regulators, by developing strategy, informing policy and confronting difficult decisions on choices, and
- Rail and non-rail users, by improving customer experience and building public trust

For enquiries regarding this consultation response, please contact:

Bill Davidson

[REDACTED]

Rail Delivery Group

2nd Floor, 200 Aldersgate Street

London EC1A 4HD

Introduction

1. The RDG welcomes the opportunity to respond to ORR's consultation on amending Schedule 4 notification discount factors. We confirm that we are content for this response to be published on the ORR website.
2. The ORR describes the purpose of the Schedule 4 regime as being to compensate train operators for the financial impact of planned disruption (possessions), usually where operators cannot run trains as planned because Network Rail is carrying out engineering work. The compensation is lower if Network Rail provides sufficient advanced notification of possessions and for franchised passenger train operators the size of the notification factors determines the level of discount given.
3. In 2015 the industry, through the RDG, carried out a review of charges and incentives to inform the 2018 Periodic Review. The review concluded that the discount structure for Schedule 4 should be reformed and so we are pleased that ORR is taking this forward through the consultation.

The Issue

4. At present, after Timetable Week minus 22 (TW-22), there is no financial incentive on Network Rail to notify late possession changes until the day before trains run. ORR is proposing that a discount on compensation is provided if Network Rail notifies operators of possessions by TW-14. Although well intentioned the industry feels that the inclusion of a new threshold at TW-14 would not incentivise the best industry behaviours as it would create unrealistic expectations that possessions notified at this date could be worked into the Informed Traveller Timetable. However, the industry notes that there is no industry process for agreeing possessions once the TW-22 deadline has been missed. This can be de-motivating for industry colleagues who work hard to accommodate these late notice possessions, only for them to be considered non-compliant.

Process for variations to the working timetable

5. Part D of the Network Code sets out the process for Network Rail variations to the working timetable. This process works reasonably well if restrictions of use (possessions) are planned in accordance with the Part D timescales but does not work well if the original TW-26 date for agreeing the possessions is missed (which drives the Schedule 4 notification threshold at TW-22). The process for timetable variations that meet the TW-26 date is:

TW-30

Network Rail should provide operators with its proposed possessions for the timetable week (TW).

TW-30 to TW-26

Network Rail consults with operators to try and agree possessions by TW-26.

TW-22

Network Rail notifies operators if they are required to submit revised access proposals.

TW-18

Operators must bid for revised access.

TW-14

Network Rail decides on revised access (the Offer).

TW-12

The revised timetable is uploaded and available for passengers (the “Informed Traveller Timetable”).

6. A process does not exist for possessions which are NOT agreed by TW-26. Under Part D there are no guidelines on alternative timescales for bid/offer etc, but instead Part D says that timescales should be **“reasonable in the circumstances”**. It also says that any operator who is unhappy with any final Network Rail decision can appeal.
7. For late changes, the industry works hard to find a way to make things work even though under Part D there is no formal process for late notice possessions. In addition, because late notice possessions always fall outside of the prescribed industry processes they are deemed to be non-compliant. It is demotivating to industry colleagues who work hard to try and accommodate late possessions for them to be considered non-compliant, when in fact such possessions are necessary for an efficient and orderly railway, and often are safety-critical.
8. The industry, therefore, believes it would be worth considering developing a new industry process, for the situation where TW-26 is missed, as this will lead to a better outcome for Network Rail, train operators and passengers. For example, it should result in a better incentive for the industry to work together to agreed timescales and reduce the incentive to appeal and prolong the process.

Schedule 4 incentives for early possession planning

9. The Schedule 4 regime compensates train operators for the financial impact of planned disruption (possessions) that mean operators cannot run trains as planned, for example because Network Rail is carrying out engineering work. Network Rail is financially incentivised to plan possessions early as the Schedule 4 compensation it pays to franchised train operators is lower for early notification of restrictions of use.
10. The current S4 compensation payments are:

Early notice threshold. Possession plans agreed by D-26 (i.e. 26 weeks before the working timetable comes into effect). At this threshold Network Rail currently pays compensation at 45% to 55% of the marginal revenue effect (MRE) amount. The percentage depends on the type of service.

Informed traveller threshold. Possession plans agreed after D-26 but before TW-22. At this threshold Network Rail pays compensation of 65% to 70% of the MRE.

Late threshold. Possession plans agreed after TW-22 but by one day before the train runs. At this threshold Network Rail pays compensation of 85% of the full MRE.

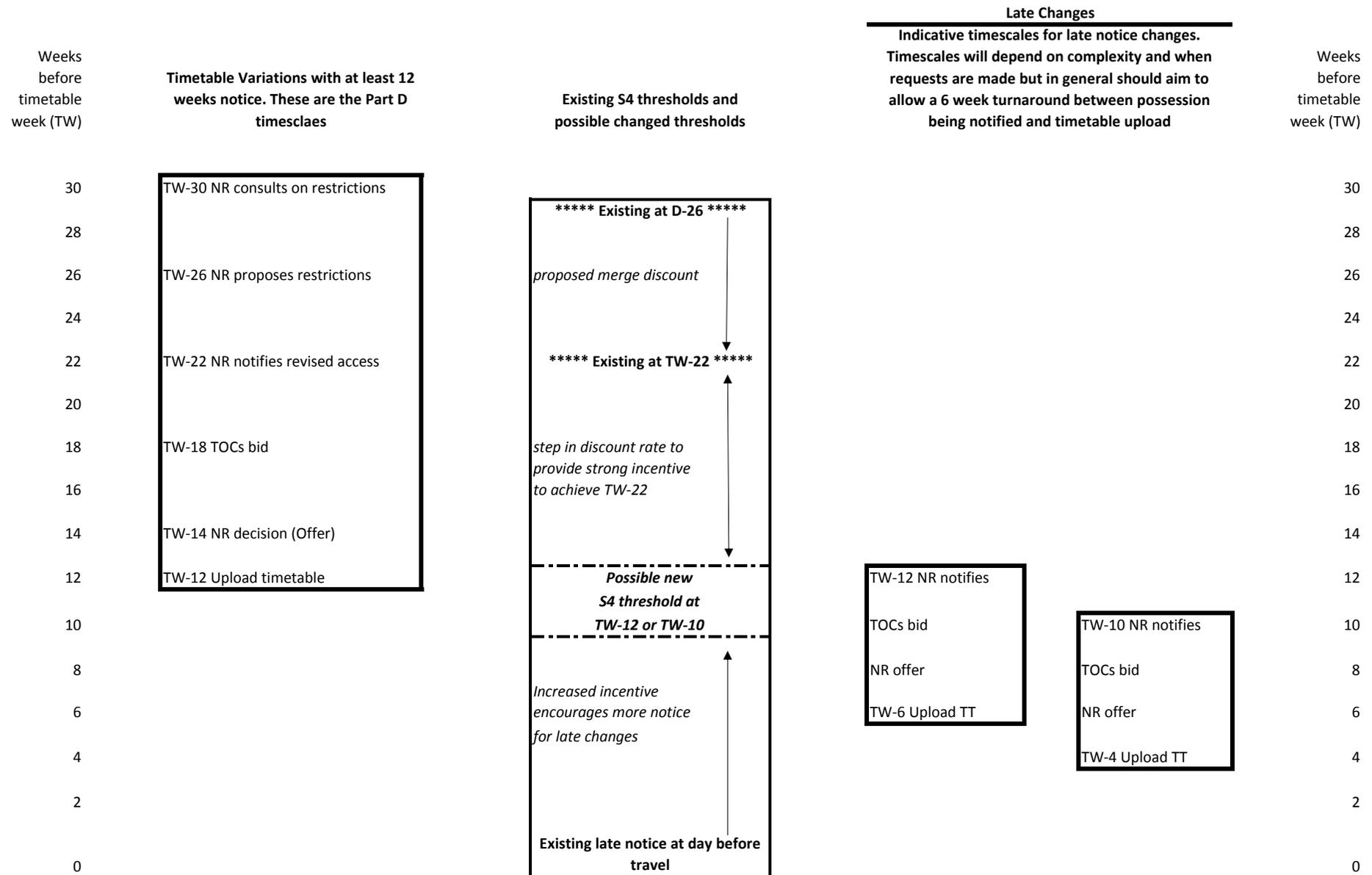
Unplanned. Disruption after the late threshold is unplanned disruption with compensation paid in accordance with Schedule 8, i.e. 100% of the full MRE.

ORR's proposals and possible improvements

11. Under the current Schedule 4 thresholds and notification discount factors (NDFs), if the informed traveller threshold (TW-22) is missed then there is very little financial incentive for Network Rail to notify late possession changes until the day before trains run. This is because, once TW-22 is missed, Network Rail pays the same compensation regardless of whether it notifies a train operator at TW-21 or the day before the possession takes place. Similarly, as noted above, there is no timetable change process under Part D of the Network Code if possessions are not agreed by TW-26.
12. We agree with the ORR proposal to make the notification factors the same for the early threshold (D-26) and for the informed traveller threshold (TW-22). This is because, according to ORR's research, the difference in these dates has no appreciable impact on passengers when planning or buying tickets. It is also the case that offering a larger discount at D-26 incentivises Network Rail to notify train operators too early.
13. We also believe that the introduction of a new Schedule 4 threshold between TW-22 and the day before trains run should be considered. However, we do not support the ORR proposal for this new threshold to be at TW-14. Having a notification threshold at TW-14 (hence before TW-12), could create the expectation that the revised timetable could be uploaded by TW-12 and thus could legitimise late notice possessions. However, it is not always possible to upload at TW-12 if notification of a possession is made at TW-14 because 2 weeks is usually insufficient time to do this. We consider that in the majority of cases amended timetables could be able to be uploaded about 6 weeks after notification of a possession requirement; i.e. a 6-week turnaround. Based on the ORR research, many passengers like to plan their journeys from about 2 weeks before travel and hence when there are late notice possessions we believe the regime should provide strong incentives to upload timetables before that, say at TW-6 or TW-4. A new **intermediate** notification threshold at TW-12 or TW-10 would help achieve this and hence would clearly provide a much better incentive than having no threshold until the existing threshold of the day before travel.
14. It is important that the notification factors are consistent with industry processes for possessions planning, i.e. the Network Code. It should also be noted that regardless of the Schedule 4 NDFs, Network Rail will continue to face commitments under Part D to provide early access information to operators. The industry suggests that further work is undertaken to fully consider the implications of a new threshold between TW-22 and the day before trains run and whether any changes should be made to Part D.
15. We note that the industry Operational Planning Strategy Group (OPSG) has already been discussing how to improve the framework for managing late notice disruptive change. The group is considering a proposal to make the approach more disciplined by improving the process for decisions about which late notice changes are needed, the criteria for deciding this, and effective communication with affected parties. The objective is that the process for agreeing disruptive possessions is smoother and more considered.

16. Following challenge by Transport Focus there is also an RDG led review, steered by the NTF, to improve the capability of the industry to achieve the informed traveller timescales. The review covers quantification of the problems, analysis of root causes and development of an action plan for improvement. The review should also help inform the Schedule 4 thresholds and process for CP6 covered by the ORR consultation. We anticipate the review being completed around the end of April.
17. We consider that the industry should set up a Task and Finish group to consider a new process to take account of possessions that are needed after TW-22. We recognise, however, that this could be challenging as it should be done alongside a possible change to Part D of the Network Code. It could be that part of a potential revision to industry processes would include an intermediate threshold between TW-22 and the day before trains run – possibly at TW-12 or TW-10.
18. The benefit of an intermediate threshold is that, when late changes occur (which is inevitable from time to time), it will strengthen the incentive to give more notice than the current regime and hence provide more timely information to passengers about amended services. The discount rates that are set for the possible new threshold (at TW-12 or TW-10) should also be set to provide sufficient steps between the early and very late notification thresholds to continue to provide strong incentives to notify as soon as possible. Hence it should provide a strong incentive to notify by TW-22, but if that is missed then there would be a strong incentive to notify by a new intermediate threshold rather than at very late notice.
19. We consider that notification at TW-12 or TW-10 could allow for passengers to be made aware of the impact on train services at TW-6 to TW-4.
20. Figure 1 illustrates the current regime and the possible changes to thresholds described above.
21. In summary, we propose that the industry sets up a Task and Finish group to consider the possible improvements considered in this response that draws upon the OPSG work and the current RDG review. The intention would be for the group to report its findings in time for them to be considered by ORR for inclusion in the Final Determination in October 2018.

Figure 1: Timetable variations and Schedule 4 thresholds - illustration of the current regime and possible options for improvement





Periodic Review 2018 team
Office of Rail and Road
One Kemble Street
London
WC2B 4AN

PR18.Schedules4and8@orr.gsi.gov.uk

12 February 2018

Dear colleagues

PR18 consultation on amending Schedule 4 notification factors

Thank you for the opportunity to respond to the ORR consultation on amending Schedule 4 notification factors.

Southeastern has been running the train service between London and Kent and parts of East Sussex since 2006. We operate one of the busiest networks in the country including the UK's first domestic high-speed service with Javelin trains.

Southeastern is operated by Govia, a joint venture between leading transport operators Go-Ahead (65%) and Keolis (35%). This response represents the views of Southeastern only.

Our response to the consultaton is set out in the order of the questions posed:

Question	Response
<p>1. Do you have comments on our proposed methodology for using the passenger research to update notification factors?</p>	<p>As a train operator with experience of handing passenger expectations in terms of the large scale and frequent blockades required as part of the Thameslink Programme; we have undertaken our own research into awareness of disruption to ensure our marketing and communications is targeting the correct areas and we are using our budget effectively.</p> <p>Our own research indicates and supports the AECOM surveys that sets out that commuters are among the most aware of our passenger groups of disruption and infrequent leisure travellers are among the less aware.</p>
<p>2. Do you have comments on option 1, which would update the notification factors? You might want to consider how, if at all, this may affect the timing of possessions and incidence of late cancelled</p>	<p>We have carefully considered the impact of option 1 if introduced. We welcome any proposal that incentivises Network Rail to plan with the end passenger user</p>

Friars Bridge Court 41-45 Blackfriars Road London SE1 8PG
southeasternrailway.co.uk



<p>possessions; and the consequences of this for operators and passengers.</p>	<p>in mind. However, it is unclear from the consultation where CP5 notification factors might be updated.</p> <p>We refer to paragraphs 3.7 and 3.8 where Option 1 is discussed. In order to adequately comment on the impact of any update to notification factors, any proposed update should be set out to operators. If this is set out in Table 3.1, the impacts aligned to Option 1 are not explicitly set out.</p>
<p>3. Do you have further comments with respect to option 2, which would, in addition to updating the notification factors, introduce a new 14-week notification threshold?</p>	<p>We have carefully considered the impact of option 2 if introduced. We hold concerns that the proposed T-14 notification threshold doesn't match reasonable timescales to communicate planned disruptions at T-12. Currently, we must be notified of engineering work at T-26 that enables a eight week planning period, informing operator bids at T-18, a four week period enabling an offer back from NR at T-14 and a timetable offer to passengers at T-12. We have not seen how the Confirmed Period Possession Plan and it's timescales for development, offer and acceptance shall be impacted, or worked though with the new 14 week notification threshold.</p> <p>In addition, the impact that we have foreseen is that the T-14 threshold offers more risk than opportunity in terms of bidding compliance with T-18. In more general terms, we have not seen how any new threshold would be introduced. Would any change to the thresholds or notification factors attract a Proposal for Change to the Network Code?</p>

There is no part of our response that should be considered confidential. If you have any questions in relation to our response, please feel free to contact me.

Kind regards



Stuart Freer
Franchise & Access Manager



Emily Bulman
Head of Transport Economic
Office of Rail and Road
One Kemble Street
London
WC2B 4AN

Victoria Square House
Ground Floor
Victoria Square
Birmingham
B2 4DN

Ref: ORR PR18\Amending S4 NDF

12 February 2018

Dear Emily,

Stagecoach Group and Virgin Trains (incorporating East Midlands Trains, Virgin Trains East Coast and West Coast Trains Ltd.) Response

PR18 Consultation – Amending Schedule 4 Notification Factors

Stagecoach Group and Virgin Trains (SG & VT) welcome the opportunity to respond to the PR18 consultation on options for amending the notification factors in Schedule 4 of franchised passenger track access contracts.

We structure our response to this consultation to be based on the consultation documents published on 18th December 2017 and to include some general observations.

Question 1: Do you have comments on our proposed methodology for using the passenger research to update notification factors?

There have been a number of discussions previously on whether or not the current notification factors incentivise good possession planning and accurately reflect customer needs.

We acknowledge that it is important to test whether passenger awareness has changed given a number of other changes in passenger behaviour. Constant technological advances mean that passengers are getting smarter in terms of planning and getting the best value for money for their journeys. Therefore, there is merit in undertaking further research to understand how and when the travel information is available to passengers. Currently our customers are tending to look and book at T-12. We then see the next peak in bookings generally occurring at T-7 onwards.

However, it is noted in the consultation that the researchers do not hold data for when the changes as a result of engineering work are available to customers prior to or at the point of planning the journey or buying their tickets. SG and VT believe that the assumption of using the average time in advance that passengers plan their journeys or buying their tickets to calculate the proportion of passengers that are aware of the disruption prior to travel is invalid. This is because passengers will only be aware of the disruption when train operating companies publish the information and when services are open for seat reservations (generally at T-12).

The primary objective of Notification Factors in Schedule 4 formulaic compensation is to incentivise NR to manage the planning of possessions more efficiently and to ensure that timetable information is uploaded in a timely manner for passenger information and for long distance inter-city TOCs to open seat reservations for passengers to purchase tickets.

SG and VT are concerned that the passenger research undertaken by the consultant appears to have misinterpreted this crucial element of Notification Factors, which is the incentive for the publication of information by NR, and not just about passengers being aware of the disruption when planning their journeys.

Question 2: Do you have comments on option 1, which would update the notification factors?

We do not support any changes to the current Notification Factor thresholds. We do, however, suggest the ORR considers strengthening the compensation payable to more accurately reflect actual losses, when there is a late notice change to the timetable (particularly when possessions are cancelled at late notice eg: strikes called off at the last minute).

Question 3: Do you have further comments with respect to option 2, which would, in addition to updating the notification factors, introduce a new 14-week notification threshold?

We do not believe that the introduction of a new 14-week notification threshold will have any effect at all on improving incentives for NR to plan their possessions more efficiently; neither will it increase the level of protection available to operators where late changes / cancellations to possessions occur.

We cannot support any additional Notification Factor thresholds below T-12 when we are aspiring to work towards offering weekend reservations at T-24 to increase our competitiveness with airlines (as we have done already with our SX services).

In addition to late notification of possessions, we also need to ensure that relevant Notification Factors are applied to any changes to possessions (including reductions, extensions and cancellations) which result in an amended timetable.

I hope this input is useful. If you would like to discuss this in further detail, please feel free to contact me.

Yours sincerely,



RP

Neil Micklethwaite
Stagecoach Rail – Commercial Director

PR18 Consultation
Office of Rail and Road
One Kemble Street
London
WC2B 4AN

Monday 12th February 2018

TfGM Response to ORR's Consultation on amending Schedule 4 notification factors and an update on the financial framework.

Executive Summary

TfGM welcomes this consultation in to how to improve Schedule 4. Simply put any changes made to Schedule 4 need to be to improve the customer experience. We need a regime which supports passenger choices and improves trust in the rail industry. This means a passenger should be able to know what they are buying (train or replacement bus/ what level of service) at the point of purchase for their ticket (day or season) or when they plan their journey, particularly as many passengers travelling locally will not buy in advance as there is no financial benefit to doing so.

As far as TfGM is concerned, the main issue for customers regarding Schedule 4 is not the cancelling of possessions, but the booking of late notice possessions. This is even more disruptive on a large programme of works such as the Manchester to Preston line upgrade. TfGM have included a case study of this programme to demonstrate actual passenger impact of Schedule 4 policy.

TfGM would therefore welcome any change to Schedule 4 which incentivises Network Rail to book possessions as early as possible, including measures which address the current issue that Network Rail pay the same Schedule 4 compensation from T-22 right through until the Late Threshold, with no incentive to book late notice possessions as soon as possible after T-22, if that deadline is missed.

Neither options 1 or 2 fulfil this criteria fully, although Option 2 does introduce a new threshold at T-14, which we would welcome. Therefore, an adapted Option 2 would be our preference. More detailed analysis of each option is provided below. However, were this to prove impossible in our opinion neither of the proposed

options would provide better outcomes for passengers and thus would both likely introduce a worsening of passenger experience.

Case Study: Manchester – Preston electrification

Due to the delay to the Network Rail project to electrify the line between Manchester and Preston, Network Rail have required a significant number of late notice possessions on this corridor beyond the original completion date planned for the December 2017 timetable. In December 2017 Network Rail approached Northern with proposals for additional possessions. The first five additional weekend possessions were bid at T-3 for the tranche and the 6th and 7th weekend also at similar timescales of T-3/4.

In terms of how this affects the customer, the responsibility for customer handling sits with the operator and Northern were required to work up communications plans as quickly as possible. This process takes about 2 weeks and diverted critical resource from service planning for the May 18 timetable change. At the time of writing as of Monday 5th Feb no detailed plans had been confirmed from Network Rail for possession requirements post February. NR have however publicised their intent to have possessions until the end of July, therefore if a passenger should try to plan their weekend journey before end of July, whilst they know they will have to get a bus not a train, the details of this are not available or transparent.

Whilst this is an extreme example and everyone involved is trying to resolve the issues, inform passengers and finish the work as quickly as possible, it does demonstrate how Schedule 4 incentives are key to driving the correct outcomes. There are resource issues in contention when dealing with possession planning, with this process requiring the very same timetable planning resource working so hard to deliver a workable timetable for May 18 (and beyond). In the same way that the strong commercial incentives delivered by Schedule 8 motivate Network Rail and Train Operators to resource accordingly to minimise delays, Schedule 4 needs to provide this incentive for reliance in terms of resources to allow these processes to be accelerated when the pressure is on.

Do you have comments on our proposed methodology for using passenger research to update notification factors?

TfGM supports the focus on customer in the consideration of notification factors. In considering this consultation and the research conducted, it is not clear to us what problem the options are trying to resolve. The options themselves are specific and restrictive and raise concerns about perverse incentives which have been captured

below. Engagement with industry stakeholders on specific issues with Schedule 4, case study analysis and mutual lessons learned workshops would have been very welcome and may have led to options which produce better passenger outcomes. This is an approach TfGM would advocate for future consultations.

The logic of the passenger research appears to be that in asking passengers who continue to travel despite a possession, most do not plan/buy a ticket more than two weeks in advance. Therefore the importance of ensuring a possession is uploaded to the passenger timetable with 12 weeks' notice is less important than originally thought/ emphasised in the current Schedule 4 regime. Some challenges/limitations to this hypothesis are below:

- Only those who still chose to travel are targeted. What about those who planned 12 weeks out, then checked again last week, discovered the possession and decided not to travel? What about season ticket holders who are sold a 7 day a week ticket, only to find it would be a bus if they travelled at the weekend, so they don't travel? They may want this information further in advance.
- There does not appear to be sufficient understanding of whether the industry are doing enough to inform passengers proactively about possessions. What was the passenger sentiment or social media sentiment for operators and Network Rail?
- The methodology doesn't take into account the implications of late possessions on businesses and the effect then on the customer. Rushed planning can lead to errors, sub-optimum solutions or at best lost opportunities to mitigate the impact on customers.
- We don't know why customers behave how they do – they might buy their ticket late because they don't understand they can buy it 12 weeks in advance, or because they don't trust the information that far in advance
- We haven't asked customers what they want – certainty? Integration? More notice? Fewer, longer possessions?

The consultation identifies the issue that the current Schedule 4 system is incentivising Network Rail to book possessions before they understand the detail or their work programmes and are therefore cancelling them. The consultation does not contain statistical evidence of this issue or an illustration of the extent of this issue or its impact on customers. This really prevents us from gaining a true understanding of whether this exiting issue is more or less significant than the on-balance risks presented through the proposed changes. Furthermore, it is unclear to what extent these options would address the existing issues.

Do you have any comments on option 1?

TfGM do not consider option 1 to provide any improvements to the customer, notwithstanding our position that we do not have clarity on how it will affect possession cancellations and how this is currently affecting customer experience. There is a danger that option 1 does not bring about any changes in Network Rail's behaviour regarding possession planning, but merely allows them to pay less compensation for late notice possessions. This bill would then likely be picked up by Franchise managers (as indicated by the consultation) which is concerning for TfGM as a Rail North partner and could threaten franchise investment and favourable customer outcomes associated with this in the longer term.

Do you have any comments on option 2?

Option 2 allows for a new threshold at T-14 which is welcome, but it in fact lessens the incentive on Network Rail to meet T-22, which is vital to allow plans to be made and timetables to be informed with good notice in line with Informed Traveller timescales. TfGM would advocate a version of option 2 which kept the threshold of T-22 as it is today, introduced a threshold at T-14 which is in line with the Applicable Timetable threshold today and introduced a new, higher Applicable Timetable threshold. Moreover we would support further thresholds allowing for a sliding scale which enable Network Rail to be incentivised to notify possessions as soon as they possibly can. We feel these stringent thresholds would incentivise Network Rail to resource resiliently to allow for the best passenger outcomes whilst the payments would enable TOCs to resource resiliently, also for the same outcome.

This sliding scale would still allow for adaption according to the passenger research, in so much that it seems 2 weeks' notice is preferable to 24 hours' notice and this should be reflected in different Schedule 4 payments for these two scenarios.

Please note that in table 2.4 of the main consultation document it states that the new threshold under option 2 will be notified to operators at T-14, but not to passengers until 2 weeks. In our conversations with operators we understand this communication plan would usually be prepared around in 2 weeks, therefore we would assume that under this scenario the possession would be notified to passengers at 12 weeks. Two weeks notification for passengers under this scenario is completely unacceptable.

Other considerations

The case study and experience shows that Schedule 4, whilst a well-established and rehearsed methodology for incentivising efficient possession planning is ripe for improvement. TfGM would like to encourage thorough examination and research into incentivisation within the rail industry which moved away from mere money movement between industry players and towards bringing real improvements to passengers. The Schedule 8 and Schedule 4 mechanisms are entirely inter-related, and although designed to incentivise the right behaviours in Network Rail and compensate their operators for assumed revenue loss under complex formulae and mechanisms, deliberately shy away from direct compensation to the passenger. Whilst much has been done over recent years to ensure Network Rail appreciate the end customer in their business and decision making, this very premise precludes that real ownership of the end result of their actions. This premise needs to be challenged in conjunction with other ongoing strategic conversations about how we run an efficient railway, in order to have a transparent and accountable industry that customers can understand.

Third Party Enhancements

Another element to consider is how Schedule 4 affects project planning and particularly third party enhancements. The regime and Network Rail's current strategy do not encourage these. Third party enhancements are often tied to a time bound funding and delivery window. Network Rail provide project management and sponsorship which should steer these projects to maximise Schedule 4 discount benefits and true possession efficiency. Whilst this works for some projects, others are delayed by Network Rail's own processes. As Schedule 4 risk is passed on to the client in its entirety, these delays mean not only risk to the programme but increased possession costs, as well as making it less likely the possessions can be coordinated with other work. Different apportionment of such risk may further incentivise Network Rail to efficiently plan possessions and encourage more third party investment.

Yours Sincerely



Caroline Whittam
Rail Programme Manager (Operations)



Periodic Review 2018 team,
Office of Rail and Road,
One Kemble Street,
London,
WC2B 4AN.

Transport for London
Palestra
London
SE1 8NJ

12th February 2018

Dear Sir/Madam,

PR18 Consultation on amending Schedule 4 notification factors

This letter sets out TfL's responses to the questions raised in the ORR's consultation on amending Schedule 4 notification factors. TfL is content for its responses to be published and shared with Third Parties.

1. Do you have comments on our proposed methodology for using the passenger research to update notification factors?

TfL has no comments on the proposed methodology. It is important that the compensation received by operators for possessions balances the revenue they lose and the additional expenditure they incur when possessions take place. The impact of the notification factors on this therefore needs to be kept under review and adjusted where necessary to ensure it enables the provision of the correct level of compensation.

If the late cancellation of possessions by Network Rail is perceived to be problematic then it would be worth considering the imposition of an additional cancellation charge to discourage this behaviour. This could be varied to increase the later the cancellation occurs, reflecting the additional costs (including those for bus replacement services) that cannot be avoided when late cancellations occur.

2. Do you have comments on option 1, which would update the notification factors? You might want to consider how, if at all, this may affect the timing of possessions and incidence of late cancelled possessions; and the consequences of this for operators and passengers.

TfL agrees that it would be desirable to adjust the notification factors to encourage more effective possession planning and reduce the instances of late cancellations of possessions. These are disruptive to customers and can cause operators to incur unavoidable costs for which they are not

compensated in full.

It is also important to consider the impact of the changes on the overall financial framework for the rail industry. Reductions in compensation received for possessions should be matched by reductions in the Access Charge Supplement paid by operators to help fund possession related costs to ensure that any changes do not result in financial gains for Network Rail. This is particularly important for rail operations that are funded by parties other than the DfT, including London Overground and TfL Rail. TfL funds these operations directly and would therefore bear the adverse financial impact of reduced possession costs for Network Rail if these were not balanced by reductions to the Access Charge Supplement, as TfL carries no funding requirement for Network Rail.

3. Do you have further comments with respect to option 2, which would, in addition to updating the notification factors, introduce a new 14-week notification threshold?

The comments made by TfL in response to question 2 also apply here.

Yours sincerely,

**Alan Smart,
Principal Planner – Rail Development,
Public Transport Service Planning,
Transport for London.**