

PR18 Reviews of Schedules 4 and 8 of track access contracts

27th November 2015 Stakeholder event – outline of points discussed

As part of our preparation for the reviews of Schedules 4 and 8 of track access contracts (the possessions and performance regimes, respectively), for the 2018 Periodic Review of Network Rail (PR18), we held a stakeholder event on Friday, 27th November 2015.

A number of stakeholders said that they would find it helpful if we provided a summary of the points raised by stakeholders during the event, which may serve as a prompt for them in preparing their response to our letter. The purpose of this note is to seek to satisfy those requests.

The purpose of the event was to give stakeholders an opportunity to:

- Learn more about the regimes and ask questions about them;
- Discuss the purpose of the regimes;
- Discuss problems with the existing regimes and things that work well; and
- Hear other people's views.

We hope that participants found the sessions useful and that they will help to inform their responses to our letter.

The event consisted of a session on the performance regime and a session on the possessions regime, with separate discussions being held for the passenger regimes, and the freight and charter regimes.

The event was attended by over 50 people including representatives from passenger, freight and charter train operating companies, Network Rail, the Department for Transport and ourselves.

The sections below briefly note some of the discussion in each session.

Schedule 4

The purpose of Schedule 4

- Discussion of the purpose of the regime, including the balance between providing incentives and compensation; interaction with other parts of the regulatory regime, including regulated outputs and the franchise agreements, and with wider industry

Schedule 4 passenger operator regime

Liquidated damages

- Discussion about cost compensation and whether the rates reflect the impacts that train operating companies incur as a result of restricted use of the network, notably in relation to bus replacement services

Notification discount factors

- The evidence and transparency of the reasoning behind notification discount factors and whether this has changed in recent years

Access Charge Supplement (ACS)

- Actual versus planned volumes of maintenance and renewals activity and the ACS charge paid relative to these activities

Sustained Planned Disruption (SPD)

- Discussion of whether the current thresholds are appropriate
- Discussion of whether some elements of the approach for SPD claims could be made formulaic

Other

- Understanding how passengers plan their journeys as well as how possessions are communicated to them

Schedule 4 freight operator regime

Category 1 and 2 possessions

- Discussion about whether cost compensation adequately compensates freight operators for the costs they incur and whether the triggers in each category are appropriate
- Discussion about funding for compensation including whether FOCs could pay an ACS for more compensation

Category 3 possessions

- The current mechanism to claim for the actual costs incurred and associated administrative costs
- Discussion about whether some elements in this category could be made formulaic

Other aspects of Schedule 4

- The importance of delivering reliable and consistent quality service for freight customers

- Wider impacts of possession including those impacts that are outside of where those possessions are taking place e.g. the availability of diversion routes
- Simplifying the wording of access track contracts
- Communication about possessions to freight customers and the information they want

Schedule 8

Passenger operator schedule 8

Purpose of schedule 8

- Discussion of the purpose of the regime, including the balance between providing incentives and compensation; interaction with other parts of the regulatory regime, including regulated outputs and the franchise agreements, and with wider industry; whether it should include wider socio-economic impacts and/or passenger compensation

The Network Rail regime

Network Rail payment rates

- Discussion of the need for supplementary evidence on the accuracy of the payment rates

Network Rail benchmarks

- Discussion about whether the methodology for setting the benchmarks was appropriate for CP5, with some focus on the selection of a re-calibration period

Sustained Poor Performance (SPP)

- Discussion about the cost of SPP claims and whether a formulaic regime would be preferable

Treatment of cancellations

- Discussion about whether the approach of using cancellation minutes to convert cancellation incidents into lateness reflects the impact of cancellations

The passenger operator regime

Passenger operator payment rates

- Discussion of the complexity of the current rates and the costs and benefits of greater transparency around their calculation

Passenger operator benchmarks

- Further discussion about the appropriateness of the methodology for setting benchmarks.

Treatment of cancellations

- Discussion about whether it is appropriate that when a passenger operator cancels their own services it is treated as a TOC-on-self delay of a specified number of minutes.

Other aspects of schedule 8

Interaction with outputs and franchise targets

- Discussion about whether the use of different measures by the schedule 8 regime relative to franchise targets causes misaligned incentives.

Perverse incentives

- Discussion about whether or not operators have good incentives to recover from delay and to help manage reactionary delay.

Any other issues

- Discussion about the need to learn lessons from the error to operator payment rates and about the need for greater transparency in the calculations.
- Some discussion about whether rates should be set at a service code, rather than service group, acknowledging the increased complexity that would entail.

Freight operator schedule 8

Purpose of schedule 8

- Discussion of the overall effectiveness of schedule 8 in improving FOC performance

The Network Rail regime

Network Rail payment rates

- Discussion of how effective the incentives provided by the payments rates are for Network Rail.

Network Rail benchmarks

- Discussion of whether or not it would help align incentives and improve accuracy if the benchmarks were set using FDM rather than delay minutes per 100 miles.

Treatment of cancellations

- Discussion about the payment rates for cancellations and the cancellation threshold and whether or not they are set at the right levels.

The operator regime

Operator payment rates

- Discussion of the need for greater clarity about the calculation of the operator rates, and the effectiveness of the rates at incentivising performance improvements.

Operator benchmarks

- Discussion of the methodology used for calculating the benchmarks and the impact of the level of the benchmarks on payments

Other aspects of the regime

Liability caps

- Discussion of the whether the liability caps were set at the right levels for different operators

Interaction with outputs

- Discussion of the effectiveness of FDM and whether schedule 8 should be set in those terms

Perverse incentives

- Discussion over whether Network Rail being responsible for delay attribution creates a perverse incentive

Other aspects of the regime

- Discussion of how the capacity charge is applied