

# Summary of responses to July 2017 consultation on possible measures of the System Operator's performance



November 2017

## Introduction

1. This note is a summary of stakeholder responses to our July 2017 consultation, "*Possible measures of the System Operator's performance*", which is available [here](#). The consultation document discussed possible measures that Network Rail's System Operator (the SO) could report on and be measured against over Control Period 6 (CP6, which will run from 2019-24). This was intended to inform the SO's ongoing discussions with its stakeholders about its CP6 priorities and, in turn, what it should report on.
2. We received 21 responses from a range of organisations, including train and freight operating companies (and their industry representatives), local and national governments, and Transport Focus. None of the responses were confidential.
3. In this note, we summarise the main points made in response to each of the questions we asked. We also discuss wider points that stakeholders made relating to the SO's CP6 settlement, including its approach to reporting and its potential governance arrangements.
4. We are publishing this note for transparency and to support discussions between stakeholders and Network Rail. ORR will consider the stakeholder views set out below during our assessment of the SO's business plan, and will set out in our draft determination whether we will require any measures of the SO.
5. Table 1 below summarises the questions we asked as part of that consultation:

**Table 1: Questions on possible measures of the SO's performance**

Q1	Are there any substantive areas of the SO's activities that you consider are not outlined, and where its performance should be measured?
Q2	What are your views on the measures outlined with respect to strategic planning and managing output changes? Are there any additional measures that you think would measure and incentivise the SO's performance in this area?
Q3	What are your views on the measures outlined with respect to managing the framework for access rights, producing the timetable and the use of capacity? Are there any additional measures that you think would measure and incentivise the SO's performance in this area?

Q4	What are your views on the SO management performance measures outlined, and are there any additional measures which you think would measure and incentivise the SO's performance in these areas? We would particularly welcome suggestions on the SO's role in contributing to system safety.
Q5&6	What are your views on our proposed criteria for identifying possible ORR-determined SO measures? What are your initial views on what measures, if any, ORR should consider setting as ORR-determined measures?
	Other stakeholder comments on reporting formats, governance and regulation, and the division of responsibilities between the SO and wider Network Rail

6. All of the responses to the consultation are available on our website<sup>1</sup>.

### **Question 1: Are there any substantive areas of the SO's activities that you consider are not outlined, and where its performance should be measured?**

7. Respondents were broadly satisfied that the consultation addressed the SO's major activities, with the majority of respondents not having any suggestions to add. However, three respondents suggested that further attention should be given to the SO's role in Event Steering Groups and Industry Planning Groups<sup>2</sup>.
8. Several respondents stressed the importance of the SO being able to work effectively across routes, particularly regarding freight pathing, co-ordination of national access (possession) planning and uniting routes across the north<sup>3</sup>.

Arriva suggested a review of the SO Scorecard metrics should be undertaken once a full process map of the SO's activities is available.

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<sup>1</sup> Responses to our consultation on possible measures of the System Operator's performance are available [http://www.orr.gov.uk/\\_data/assets/pdf\\_file/0015/26106/responses-to-consultation-on-possible-measures-of-the-system-operators-performance.pdf](http://www.orr.gov.uk/_data/assets/pdf_file/0015/26106/responses-to-consultation-on-possible-measures-of-the-system-operators-performance.pdf)

<sup>2</sup> Arriva, RDG, DB Cargo.

<sup>3</sup> Freight Transport Association, Cross Country Trains, and Transport for Greater Manchester respectively.

## **Question 2: What are your views on the measures outlined with respect to strategic planning and managing output changes? Are there any additional measures that you think would measure and incentivise the SO's performance in this area?**

9. The responses to this question have been summarised in line with the sections we used in our consultation document:

- leading strategic planning;
- leading early-stage development of enhancement projects;
- tracking funding and output commitments across the enhancements portfolio;
- realising the benefits of enhancements; and
- informing franchising decisions.

### **Leading Strategic Planning**

10. Overall, respondents saw the value of milestone-based measures for producing long-term planning outputs<sup>4</sup>, although Rail Delivery Group (RDG) questioned how the measure would reflect any future changes to Network Rail's long-term planning process, given its plans to adapt this. Network Rail proposed that it would develop a rolling annual plan of long-term planning activities, against which it could be measured.

11. In addition, respondents stressed the importance of also attempting to measure the quality of the outputs, perhaps through stakeholder views/consultation<sup>5</sup>. The Department for Transport (DfT) noted that it (and other funders) would have a particular interest and role in assessing quality, and that milestone measures should not create perverse incentives for Network Rail to deliver unnecessary work.

12. Respondents emphasised that the SO should always engage with operators to consider non-infrastructure solutions as part of the long-term planning process. Similarly, some respondents were particularly supportive of greater alignment between strategic planning and renewals plans in order to drive efficiencies. Peninsula Rail Task Force suggested that the SO should have a clear vision for routes that could then be achieved through delivering incremental improvements alongside renewals.

13. More generally, stakeholders were supportive of promoting more low-cost solutions through long-term planning, but there were some concerns that measures in this area (such as the number of low-cost capacity improvements identified, measure A2) could drive perverse incentives, depending on how it was managed. Respondents also said that the measures related to securing funding (originating from both government and

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<sup>4</sup> Freightliner, TfL, Network Rail, RFG, DfT.

<sup>5</sup> TfL, RDG, Freightliner

third parties, measures A7 and A9), and the proportion of projects arising from the long-term planning process (A8) were particularly likely to create perverse incentives<sup>6</sup>.

14. Many respondents<sup>7</sup> said it would be inappropriate to measure the accuracy of long-run forecasts, given the inherent uncertainty associated with this. However, Peninsula Rail Task Force noted that long-run forecasts were a specific area of concern and suggested the SO could undertake more engagement in this space. Similarly, the Chartered Institute of Logistics and Transport (CILT) said long-term planning forecasts did not include a consideration of franchise led growth. First Group suggested that it would be more effective to measure the SO against a rolling programme of forecast updates, using lessons learnt to revise methodologies. The DfT said that, rather than attempting to measure the accuracy of forecasts, it would be more practical to measure client satisfaction, and to qualitatively assess whether best practice had been followed.

### **Leading early stage development of projects**

15. Some respondents<sup>8</sup> welcomed the explicit tracking and reporting of early stage project milestones, but noted there was a need for a change control mechanism so that milestones could be adjusted if requirements were updated. Network Rail suggested that undertaking peer reviews could be an effective mechanism to guarantee quality. Separately, CILT questioned why responsibility for projects transitions from the SO to the routes after development, suggesting this increases the risk of delays and loss of expertise, while also creating a barrier to early contractor involvement. TfL in particular stressed the importance of the SO developing its capabilities in this area, and the Railway Industry Associate wanted to see more early contractor involvement in project development.

### **Tracking funding and output commitments across the portfolio**

16. The Freight Transport Association said that tracking funding and output commitments was an area of historical weakness for cross-route projects, which adversely affects freight corridors. TfL were supportive of a measure relating to the number of change controls attributed to SO failings (measure B4), suggesting this could help identify areas for improvement. However, Network Rail argued that attempting to measure this would duplicate processes and not add value. It also noted that the SO is dependent on other parts of Network Rail to provide accurate information to it, and that measures relating to the interaction of enhancements and renewals (measure B7) could be more effective as a process-based measure of engagement, rather than an outcome-based measure.

### **Realising the benefits of enhancements**

17. Respondents accepted that the SO is often dependent on other parties in realising the benefits of an enhancement, which might include the reliance on routes to deliver projects or on funders/TOCs to make new rolling stock available. Freightliner

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<sup>6</sup> Cross Country, RDG, Freightliner, Network Rail, CILT.

<sup>7</sup> TfL were a notable exception.

<sup>8</sup> RDG, TfL, RFG.

proposed that, even where delivery of an enhancement might slip, the SO could still secure the future benefits of the project through recording it in the Strategic Capacity Statement, and that this activity could be reported against.

18. Respondents said they would welcome more clarity around the respective roles and division of responsibility regarding Network Change, but were not convinced that measurement in this area was essential, as it is already embedded in the Network Code<sup>9</sup>. Network Rail stated the SO is not responsible for the accuracy of the Sectional Appendix, and Transport Focus explicitly requested additional clarity over roles and responsibilities in this area.

### **Informing franchising decisions**

19. Arriva observed that the SO also works directly with prospective applicants as well as funders, and that this should also be assessed. However, First Group were clear that while the SO should provide advice, it should not evaluate franchise bids, as Network Rail is not responsible for deciding the funding and outputs of the railway. TfL and Network Rail supported milestone based reporting (noting that these need to be associated with clearly defined responsibilities) as an approach to measuring the SO's performance in this space, as well as feedback from franchising authorities to assess the quality of advice.

### **Question 3: What are your views on the measures outlined with respect to managing the framework for access rights, producing the timetable, and the use of capacity? Are there any additional measures that you think would measure and incentivise the SO's performance in this area?**

20. Responses to this question have been summarised in line with the sections we used in our consultation document:

- managing the framework;
- producing the timetable; and
- use of capacity.

### **Managing the framework**

21. The Sale of Access Rights (SoAR) decision-making process, as expressed in the Network Code, was noted to be a very well-defined process. Respondents noted that the SO does not always make the final decisions, so process-based measures were most appropriate, perhaps supported by narrative descriptions by the SO<sup>10</sup>. They also suggested that the SO's adherence to codes and practices could be measured. RDG

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<sup>9</sup> RFG, Network Rail.

<sup>10</sup> RDG, DB Cargo.

suggested that the number of successful appeals against SO decisions could be a way of measuring this.

22. GB Railfreight welcomed particular focus on the SoAR process, to encourage swifter access decisions and to promote consistency. Network Rail stated that it was considering improvements to the process, and that it might be possible to measure any milestones associated with an improvement programme.
23. Some respondents said that the SO could be measured on its provision of Strategic Capacity, suggesting that this could encourage it to identify opportunities in the timetable (though they also accepted that measures should focus on the level of capacity offered rather than the level taken up by operators<sup>11</sup>). However, while Network Rail was keen to improve transparency around Strategic Capacity, it noted that the level of Strategic Capacity available is dependent on the amount used by operators. RDG and GB Railfreight wanted measures to ensure that the SO undertook the reporting of Strategic Capacity, whilst not measuring the level itself.

### **Producing the timetable**

24. In attempting to assess the quality of timetables produced, respondents expressed a range of views on the measures discussed in the consultation document (in Table 4.2). TfL said there was value in all the measures, but others were more sceptical. In particular, several were concerned that reporting against delays caused by the timetable (502a delay minutes) could overly incentivise a focus on this area at the expense of other outputs, arguing that this made up only a very small amount of total delay<sup>12</sup>. Arriva suggested that attempting to model levels of systemic delay (measure D9) might provide greater insights, although it may be challenging to develop the measure. First Group suggested focussing on the quality and accuracy of inputs and the adherence to the Train Planning Rules (TPRs). While not a measure, Transport Focus suggested the SO could make greater use of available data to improve its understanding of how the timetable works in practice.
25. Network Rail proposed to use both 502a incidents and minutes on its SO scorecard as proxies for timetable quality, and challenged the idea that there is such a thing as 'inevitable delay' in the timetable. While accepting that there was room for improvement, Network Rail said it was not keen to review legacy TPRs, saying that many of them have already been reviewed by the TRIP programme. Rather, it proposes to focus its reviews where performance issues have been identified, or where infrastructure has changed.
26. Some respondents also discussed measures of network availability. First Group said that understanding network availability was important, but suggested that rather than looking at the number of possessions introduced after the production of timetable (as the current P-DIP measure does), the true measure of availability is against the access rights that operators hold and the timetables they request in association with these rights. Cross Country and Transport Focus suggested a greater focus on

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<sup>11</sup> RFG, DB Cargo.

<sup>12</sup> First Group, RDG, Freightliner

national co-ordination, for instance measuring the number of days it is not possible to travel by train between two locations (which would build on the measure relating to the extent of adherence to the Access Framework Principles - D13). Network Rail stated that access planning is devolved to the routes and so this is not an SO accountability, but that in response to feedback it would consider how it could strengthen the SO's coordination role in this area. The DfT said it was interested in working with the SO to explore its role around balancing the competing demands on the network for engineering access and operations.

27. Some stakeholders said it was important that the timescales for producing the timetable were being met. For instance, Transport Focus suggested that both route and SO scorecards should measure Network Rail's success at planning possessions so train companies can bid accurately 18 weeks before operations, and suggested measuring the completeness/accuracy of operator bids at that time. Cross Country said it was keen to see the number of timetable changes (less than twelve weeks before operations) that could be attributed to the SO.
28. Some respondents<sup>13</sup> voiced concerns that timetable production was too slow, that improvement programmes in CP5 had not yielded benefits and that it should be easier to adapt the short-term timetable in response to circumstance. Network Rail suggested it would be open to consideration of measures about its responsiveness to timetable requests. Abellio suggested that some aspects of timetabling could potentially be devolved, but DB Cargo stressed the importance of consistency across routes.

## **Use of capacity**

29. Respondents who commented on this area were generally supportive of further work to understand the measurement and use of capacity on the network, and wanted the SO to have sufficient resource to lead this work. Currently, the SO is trialling the capacity concepts outlined in the report TRL undertook for ORR<sup>14</sup>. However, a number of responses were sceptical that this would successfully distil capacity utilisation into a single measure<sup>15</sup>.
30. TfL suggested use of generalised journey time as a measure of capacity, suggesting that this would better reflect passenger priorities. Cross Country, Stagecoach Virgin Trains and GB Railfreight said they are also keen to see reporting on journey and pathing time of services.
31. The DfT said it was keen for the SO to report on the capacity and capability of the network to help inform its decisions, but accepted that this was not related to the performance of the SO and that reporting on a separate system operation dashboard might be more appropriate than via the scorecard.

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<sup>13</sup> MTR Crossrail, Transport Focus.

<sup>14</sup> 'Options for capacity measures/metrics', TRL, 2017, available at the link below [http://orr.gov.uk/\\_data/assets/pdf\\_file/0020/24266/trl\\_report\\_options\\_for\\_capacity\\_measures\\_and\\_metrics.pdf](http://orr.gov.uk/_data/assets/pdf_file/0020/24266/trl_report_options_for_capacity_measures_and_metrics.pdf)

<sup>15</sup> Arriva, RDG, Network Rail, CILT.

**Question 4: What are your views on the SO management performance measures outlined, and are there any additional measures which you think would measure and incentivise the SO's performance in these areas? We would particularly welcome suggestions on the SO's role in contributing to system safety.**

32. Respondents stated that financial performance measures were important, in line with any other business<sup>16</sup>. Associated with this, Arriva were keen for the SO to report on its resourcing.
33. Those who commented on the area stated that measuring stakeholder satisfaction would be a useful assessment of the SO's performance<sup>17</sup>. Some noted that this would be most effective if disaggregated across activity areas and presented for discussion or comment, as this would help identify opportunities for improvement<sup>18</sup>. To an extent, robust stakeholder satisfaction measures were seen as a potential proxy for those areas where measurement may be harder, most notably the quality of the SO's outputs<sup>19</sup>.
34. RDG agreed that the SO could report on system safety, and that it should demonstrate how safety was factored into its activities. DB Cargo suggested some potential measures of safety including the number of timetable conflicts and level-crossing risk levels (particularly when capacity use changes). Network Rail argued that the SO's contribution to system safety was through effective delivery of its operational model.

**Questions 5 & 6: What are your views on our proposed criteria for identifying possible ORR-determined SO measures? What are your views on our proposed criteria for identifying possible ORR-determined SO measures?**

35. Respondents agreed with the view that ORR-determined measures should be a 'last resort', and that the vast majority of the scorecard measures should be agreed between the SO and its stakeholders<sup>20</sup>. Respondents said that ORR's role should be to 'fill gaps' that remain after stakeholder engagement, and were cautious about the SO scorecard being dominated by ORR measures. First Group stressed that ORR would still need to undertake monitoring and enforcement of the measures. Arriva and TfL

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<sup>16</sup> Arriva, First Group, TfL.

<sup>17</sup> First Group, RDG, Freightliner, DB Cargo, TfL, DfT.

<sup>18</sup> TfL, Freightliner, DfT.

<sup>19</sup> RDG, DB Cargo, Network Rail, DfT

<sup>20</sup> First Group, RDG, Freightliner, DB Cargo, TfL, Network Rail, DfT.

noted that there may be a need for new measures to be introduced through CP6, and that it may be worth allowing time for the measures to ‘mature’ before the SO’s scorecard was regularly published.

36. Most respondents reiterated that the scorecard should mainly consist of customer priorities. However, stakeholders noted they had not yet seen a proposed SO scorecard, so were poorly placed to identify where there may be gaps. TfL suggested a number of specific measures that were particularly important to it around timetable planning rules and the measurement of capacity, with a particular focus on generalised journey times.

## Other comments

### Broader comments on reporting formats

37. Stakeholders recognised that quantitative reporting via the SO scorecard would not be sufficient in isolation to provide a holistic assessment of the SO’s performance. Indeed, several suggested that other reporting formats (e.g. an annual report) would likely be of as much (if not greater) value to them<sup>21</sup>, as it would give the SO the opportunity to explain and justify the trade-offs it had to make. In addition to broad qualitative reporting, however, attempts to devise numerical measures of the quality of some of the SO’s outputs were particularly welcomed<sup>22</sup>. Freightliner suggested that an industry forum could be another useful mechanism for the SO to report on its performance.
38. RDG noted that reporting could be particularly effective where it related to the stated activities and outputs within the SO’s strategic plan. Network Rail stressed that it believed only activities it was accountable for should be reflected on the SO scorecard.

### SO governance and regulation in CP6

39. Several respondents commented on the SO’s governance as a related topic. Abellio called for a ‘terms of reference’ to be expressly documented as part of the SO’s planning process, and was supportive of a supervisory board being established for the SO in line with the routes’ approach. However, DB Cargo and RDG stressed that any accountability mechanisms put in place should not lead to a legal separation of the SO from Network Rail, so Network Rail’s Board would need to remain ultimately accountable.
40. Respondents who commented were supportive of the SO receiving a separate funding settlement, possibly guaranteed by a Regulated Asset Base<sup>23</sup>.

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<sup>21</sup> First Group, Freightliner, DB Cargo, Network Rail

<sup>22</sup> Cross Country Trains

<sup>23</sup> RDG, Freightliner, DB Cargose

41. More generally, RDG and DB Cargo expressed support for the proposed new regulatory approach that will give room for industry to solve issues in the first instance, before the ORR intervenes. However, they stressed that stakeholders should not be relied upon to replicate the ORR's role. Transport Scotland stated that it expected the ORR to provide regulatory assurance that the objectives of its HLOS were being met, and Abellio also stated that they would like to see a stronger ORR response to under-performance in CP6.

### **Responsibilities between SO and wider Network Rail**

42. Transport Scotland said that some aspects of the SO's activities would best be carried out within the Scotland route, and stressed that the outputs of good system operation must correlate directly to the delivery of the Scottish HLOS. SESTran said it was keen to see SO outputs disaggregated to a Scottish level, and Network Rail acknowledged that it would need to think about how best to meet the specific requirements of Transport Scotland's HLOS.

43. Freightliner noted the SO's proposal to create SO-Route level scorecards and welcomed this, but cautioned that the SO should not come to view the routes as a conduit for engaging with its customers. Rather, the SO should continue to engage its customers directly. Stagecoach Virgin Trains however saw their primary relationship with the route, and the SO as a supplier to the routes, and wanted to understand how to escalate concerns if there was disagreement.



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