



OFFICE *of the*
RAIL REGULATOR

**THE TIMETABLING OF THE
RAILTRACK NETWORK**

A CONSULTATION DOCUMENT

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Regulator's foreword

1. In 1994, a new process was introduced for the timetabling of trains on the rail network. My office worked together with train operators and with Railtrack on the development of this process. The key objective was to provide an efficient and flexible framework for the development of new train services to meet the needs of passengers and freight customers, without the need to seek regulatory approval for each change.
2. The timetabling process has delivered important benefits: it has facilitated the introduction of new and innovative train services (such as the new Connex South Central Rugby-Gatwick Airport service, through services between the North West and the South West and the introduction of new Sunday services); it has imposed better planning of engineering works so that timetable information can be disseminated earlier; and we now have a substantially accurate Great Britain Passenger Railway Timetable.
3. The arrangements have evolved significantly in the light of experience of operation and the need to provide better information to passengers. I welcome this process of continuous improvement, which has been led by the industry. But train operators must continue to work together, and with Railtrack, to deliver further benefits. And Railtrack has a key responsibility in maximising the use of capacity and the proactive development of new service opportunities.
4. I also want to ensure that the significant role to be played by the Rail Users' Consultative Committees - with their wealth of experience and expertise in relation to passengers' needs and expectations - is properly recognised.
5. I therefore believe the time is now right for me to review the operation of the processes, not to rewrite them, but to see what further improvements can be made.
6. I am seeking views from the industry, from funding bodies and from the representatives of rail users as to how the timetabling process (and the associated processes of regulatory approval of access rights and consultation on timetabling with the Rail Users Consultative Committees) are working and whether they can be improved. In particular I hope that this consultation document will stimulate proposals from Railtrack and from operators further to improve the process, and subsequent actions by them to do so.

JOHN SWIFT QC

1. Introduction

- 1.1 The process by which Railtrack develops the railway timetable to meet the needs of train operators and their customers is critical to the achievement of better services for customers in the restructured and privatised railway. In this document the Rail Regulator seeks views on how the process is working and whether there are any changes which could be made to improve it.

Objectives for the timetabling process

- 1.2 The Regulator's high level aim is to create a better railway for passengers and freight customers, and better value for public funding authorities, through effective regulation in the public interest. He considers that the timetabling and related processes should contribute to that aim by:
- facilitating the development and operation of train services which better meet the needs of passengers and freight customers and encouraging innovation in the provision of train services;
 - promoting the sharing of capacity on the network in accordance with public interest criteria as defined by the Regulator's statutory duties, and encouraging cooperation between train operators, and between train operators and Railtrack, to improve the overall service to passenger and freight customers, and provide overall service patterns which meet the needs of users;
 - preserving and developing network benefits, ensuring that connections between services are maintained and improved;
 - enabling delivery of accurate and timely information about train services;
 - facilitating effective passenger representation;
 - achieving stability, efficiency and responsiveness in operation of the processes, and an efficient deployment of industry resources;
 - facilitating the development of an appropriate level of competition as a stimulus to better services, whilst ensuring that adequate mechanisms are in place to prevent behaviour detrimental to the public interest;

- recognising the obligations on passenger train operators to meet their franchise agreement commitments to the Government and Passenger Transport Executives; and
- recognising that the objectives are more likely to be achieved if they are linked to commercial incentives on operators and Railtrack.

The processes in outline

- 1.3 Train operators using Railtrack's network have contractual access rights which - apart from those which predate the relevant parts of the Railways Act 1993 coming into effect in 1994 - are contained in access agreements approved by the Regulator. In approving these access rights the Regulator has sought to ensure, to the extent practicable, that they will enable an allocation of capacity on the network which is such as to promote the public interest as defined by his duties under section 4 of the Railways Act.
- 1.4 Generally speaking, however, access agreements, which may last for several years, do not set out a detailed timetable of train services for any particular year. Instead, access rights are exercised through the timetabling process set out in Part D of the Railtrack Track Access Conditions ("the Access Conditions") which are incorporated into every track access agreement entered into by Railtrack.
- 1.5 The timetabling process in Part D is outlined in Annex A. The process is essentially a consultative one which includes:
- the production by Railtrack of initial timetable parameters, including details of engineering works proposed;
 - an iterative bidding process during which train operators bid for train paths consistent with their access rights and Railtrack allocates capacity on the basis of public interest decision criteria;
 - an appeals process to settle disputes; and
 - the production, and ultimately publication, of the timetable by Railtrack.
- 1.6 Two principal timetables are produced each year (in late May/early June and late September), each the result of a separate development process. Spare capacity during the currency of a timetable is allocated through a separate "spot bidding" process.

1.7 Other processes associated with the timetabling process are:

- Approval by the Regulator of new or amended access rights: Any new or amended access rights must, under the Railways Act, be approved by the Regulator if they are not to be contractually void. In many cases train operators have agreed amendments to the rights set out in the original access agreements approved by the Regulator in order to enable improved services to be introduced. The Access Conditions enable Railtrack to consider bids for which access rights have not yet been approved, but the relationship between the two processes needs clarification.
- Consultation by train operators with Rail Users' Consultative Committees: In his statement Regulatory Objectives for Passenger Train Operators published in June 1997, the Regulator emphasised the importance of openness and transparency in the relationship between train operators and the Rail Users' Consultative Committees, so that passenger views and needs could be fully taken into account.

Key questions

1.8 It is important to recognise that the timetabling processes have undergone continual refinement and improvement since their inception and the Regulator is mindful of the benefits of maintaining stability in these arrangements. However, the Regulator considers that there are a number of key issues that should be reviewed at this stage in order that the Regulator can satisfy himself on how effectively the current arrangements are operating in the public interest.

1.9 The key issues on which this document focuses are:

- whether the processes of cooperation between train operators on timetable development, and consultation with passenger representatives, are working effectively and whether they can be improved;
- the extent to which the evolving processes by which access rights are converted into timetable slots by means of Part D of the Access Conditions meet the objectives set out in paragraph 2 above and, if not, how the processes might be further refined; and
- how the link between the timetabling process and the process by which the Regulator approves new or amended access rights can be improved.

- 1.10 The remainder of this document sets out a range of specific issues and questions on which the views of consultees and proposals for possible improvement are sought. Some of the issues raised are general matters relating to the promotion of the public interest, and the views of all consultees are sought on these. However, some questions (primarily those in sections 3 and 4) are of a more technical nature (relating to the operation of the contractual procedures) and are therefore focused more specifically at train operators and Railtrack.
- 1.11 In order to set responses in context, the Regulator is first of all seeking views from the industry and from users and their representatives and from funders of the railway as to whether the objectives set out in paragraph 2 above are appropriate for the process, whether there should be additional objectives, and whether and if so how these objectives should be prioritised.

2. Coordination and passenger representation

Coordination

Cooperation in train planning

- 2.1 As stated in paragraph 2, an important objective of the current timetabling process is to facilitate the development of appropriate coordination between train operators in the planning of complementary services. This means in particular:
- the effective planning of timetabled connections, both to meet Passenger Service Requirements in franchise agreements and to provide further improvements to through journey opportunities; and
 - on routes with more than one operator, effective coordination of individual service patterns to produce a timetable which creates benefits for passengers.
- 2.2 In addition, train operators' franchise agreements require them, in developing the timetable, to cooperate with each other on connections and service patterns. Franchise agreements also require operators to use reasonable endeavours to give relevant RUCCs and local authorities notice of significant changes to their pattern of services so that their views can be taken into account before timetable bids are submitted to Railtrack.
- 2.3 Such coordination, however, is not an explicit part of the timetabling process itself, and the extent of consultation and coordination is largely left to the discretion of individual train operators. However, Railtrack has to make timetabling decisions in accordance with the public interest Decision Criteria (reproduced in Annex B) which include, among other things, maintaining and improving connections and ensuring an appropriate spread of services reflecting the needs of passengers. Thus Railtrack also has a key role in ensuring coordination is effective.
- 2.4 The Regulator wishes to hear views from users and their representatives, funding bodies and the industry as to how effectively these arrangements, especially in respect of connections and coordination of service patterns, are working, and suggestions for improvement.

Confidentiality

- 2.5 One particular factor that may inhibit this process of cooperation and coordination is the desire of train operators for commercial confidentiality for their timetabling plans until bids are formally accepted by Railtrack. The Regulator would be interested to hear views from train operators, funding bodies and Railtrack on the extent to which train operators' approach to commercial confidentiality inhibits effective planning and coordination of service patterns and connections. As a matter of principle, in what circumstances, if any, should train operators be permitted to require their plans to be treated as confidential, and up until what stage of the process?

Passenger representation

- 2.6 When it was responsible for the operation of passenger train services, British Rail had formal arrangements with the then Transport Users' Consultative Committees to consult them on timetable changes. Train operators now have arrangements for consulting the Rail Users' Consultative Committees in advance of timetable changes. The Regulator is seeking views in particular from the Committees themselves on whether the process whereby train operators consult the Rail Users' Consultative Committees on timetable changes is operating in a way which enables the Committees to represent the interests of passengers effectively, how it could be improved, and whether concerns about commercial confidentiality are inhibiting the process.

3. The timetabling process (Part D of the access conditions)

The structure of the process

- 3.1 As stated above, the processes in the Access Conditions have evolved over the past three years of operation. In the light of experience of operation, and in order to achieve the industry target of an accurate timetable twelve weeks in advance of its running the timescales are now fairly long. In practice, an operator is likely to wish to bid 42 to 46 weeks before a new timetable is due to operate, and must bid by 30 weeks in advance. The Rules of the Plan and Rules of the Route must be determined in advance of this. The number of bidding cycles is very limited.
- 3.2 The Regulator is seeking views from train operators and Railtrack on:
- (a) whether the industry should seek to reduce the present bid timescales, and if so by what practical means this might be achieved. He would be interested in particular in Railtrack's proposals in this area, both for the short (1-2 years) and medium (2-5 years) terms;
 - (b) whether, and to what extent, the existing process of two (or in some cases one) bidding cycle can or should evolve into the multiple iteration process originally envisaged, taking account of all the pros and cons of such a development; and
 - (c) whether the current focus on two passenger change dates each year is appropriate (bearing in mind that more frequent alterations to the timetable might make the dissemination of accurate and timely train information to passengers more difficult, and indeed create confusion for passengers).
- 3.3 The Rail Users' Consultative Committees have asked the industry to amend the timetable change dates so as to bring the start of the Summer timetable forward to early, or (as was the case until 1993) mid May. The industry through the Class Representative Committee (the industry forum responsible for deciding on changes to the Access Conditions) has considered these proposals, but decided not to make any change. The Regulator wishes to understand what passenger benefits and disbenefits would arise from the proposal, and whether there are alternative means of achieving the benefits.

Major timetable changes

- 3.4 Concern has been expressed in the context of the upgrade of the West Coast Main Line and of Thameslink 2000 that the existing process will not be able to accommodate major recasts of the timetable. In these cases arrangements have been put in bilateral access agreements, but these do not give rights in the process to other operators so they cannot supersede the provisions of the Access Conditions. Therefore it may be better to change the Access Conditions process to recognise this issue explicitly. Railtrack has recently proposed that significant timetable changes are included on an illustrative basis only in the base timetable at the start of the bidding process as an indication of their likely impact, but without prejudicing the iterative process and Railtrack's application of the Decision Criteria. This proposal was approved by the Class Representative Committee and the Regulator.
- 3.5 The Regulator is seeking views from train operators and Railtrack on the extent to which the current process, given the recent change introduced by Railtrack, is likely to be able to deal with major timetable changes. In particular should provision be made for additional (and by their nature more extended) processes to deal with this situation, and what sort of processes should they be? For instance should operators be able to declare that they are making a major change which should be covered by a longer process with more iteration?

Public interest criteria

- 3.6 The Decision Criteria are at the heart of Railtrack's decision making under the timetabling process. These are the criteria to which Railtrack must have regard in considering train operator's timetable bids and in making decisions about the best allocation of capacity. They are listed at Annex B. They were designed to put the Regulator's duties under section 4 of the Railways Act into the train planning context. They are explicitly not prioritised, on the assumption that "case-law" will emerge through Railtrack's operation of the process, and the appeals process and because the Regulator's duties are not prioritised in the Railways Act. The Regulator wishes to hear views from the industry, funding bodies and users and their representatives on

whether there are any amendments that should be made to the Decision Criteria so that they better reflect the Regulator's public interest objectives and the objectives of the process set out in paragraph 2 above¹.

Freight services

3.7 The evolution of the process during the last three years has largely focused on the needs of operators of scheduled passenger services. Whilst the issues and questions set out above in this document are equally applicable to freight operators as well as passenger train operators, the Regulator considers that, in addition to those questions, there are certain issues which may require specific consideration in the context of the development of the rail freight market.

3.8 For freight, a much higher proportion of services are operated under the "spot bid" process. The Regulator wishes to hear the views of freight operators and freight customers on how effectively the timetabling process meets the needs of rail freight, and whether there are any specific modifications which would better meet those needs.

Charter services

3.9 Similar issues arise in relation to the timetabling of passenger charter train services as for freight. The Regulator would be interested in views on whether, in the future development of the timetabling process, there are any specific factors or concerns that should be taken into account.

¹ In September, the Regulator published a consultation document entitled "New Service Opportunities for Passengers - A Consultation Document on the Development of the Competitive Framework for Passenger Rail Services". In it, he explained the importance of ensuring that new train services deliver benefits for passengers and that the necessary mechanisms are in place to prevent behaviour which would be detrimental to the public interest and to achieve service patterns which meet the needs of passengers (see paragraphs 4.5 to 4.7 of that consultation document). The document asked whether the Decision Criteria - in their present form - provide sufficient controls. Respondents should be aware of this separate consultation and may wish to bear this issue in mind in responding to the question in paragraph 23.

4. Link between regulatory approval of access rights and the timetabling process

- 4.1 The Access Conditions require Railtrack to give priority to bids for services for which Firm Contractual Rights² have already been acquired by operators. Operators may, however, also bid for slots to run services for which they have not yet acquired the necessary track access rights. At present, it is more common for operators to negotiate the detail of new access rights after securing slots in the timetable.
- 4.2 The Regulator has made clear where new access rights are submitted to him for his approval, he does not weigh the fact that the new services for which rights are being sought have been included in the timetable as one of the considerations in taking his decision. Were he to do so, he would be providing a mechanism through which operators could effectively limit the influence of one or more of his statutory duties by "working the system", and this would be unacceptable. Railtrack and the train operator concerned take the risk that the Regulator will not give the necessary approvals. The Regulator has sought to work with the industry to minimise this risk. He has published criteria for his approval of track access rights; he expects industry players to be able to make a reasonable assessment of how he will respond to a proposal; and his office has been prepared to give early informal advice on proposals for new access rights.
- 4.3 There are, however, risks for the industry as a whole in the practice of timetabling being dealt with before access rights have been approved. There is the risk of timetable slots being allocated which cannot then be taken up, and are thus wasted. Also, there have been a number of cases where insufficient consultation with other operators has taken place prior to rights being sought or where rights are not approved until after publication of the Great Britain Passenger Railway Timetable. This leaves Railtrack facing the hard question of whether to include services which may not be

² Firm Contractual Rights are defined in the Railtrack Track Access Conditions as meaning:

- "(a) in the case of a Bidder, a right under its Access Agreement in respect of the quantum, timing or any other characteristic of a train movement; and
- (b) in the case of Railtrack, a right under the applicable Rules of the Plan or the applicable Rules of the Route - which is not expressed to be subject to any contingency outside the control of the holder of the right, except, in a case within paragraph (a) above, the applicable Rules of the Plan or the applicable Rules of the Route".

able to run, or whether to omit services which subsequently do run (so far, the Regulator has not rejected proposed new access rights at a late stage.)

- 4.4 When considering new or amended access rights which in his opinion are likely to have a material impact on other operators using the routes concerned, it is the Regulator's general policy to consult those other operators (and associated funding bodies). The Regulator is proposing to issue procedures setting out the arrangements in more detail, but at present the Regulator aims to reach a decision on proposed rights within eight weeks of receiving an application. This is critically dependent on the quality of documentation submitted, and the nature and materiality of issues which arise during the process of regulatory consultation and scrutiny. For very major changes (*e.g.* those associated with major investment projects) the process of consultation and scrutiny is likely to take somewhat longer.
- 4.5 Benefits to passengers and freight customers will often arise through train operators and Railtrack being able to respond quickly to market opportunities. The recently approved access agreement for English Welsh and Scottish Railway Ltd. gives that freight operator considerable flexibility of rights, subject to Railtrack having timetabling flexibility, and with some overall protection as to the impact on capacity.
- 4.6 The Regulator recognises that passenger train operators often wish to seek firm rights to key service features, and he will wish where appropriate to scrutinise these firm rights and consult other affected operators. However some market led changes to rights will have a short lead time and the timetabling process is always likely to be more flexible than a process of regulatory consultation and scrutiny. Moreover in itself the timetabling process (through the appeals mechanism) provides some protection to the interests of other operators.
7. The Regulator has identified the following possible options to clarify the relationship between the timetabling and access approvals processes:
 - (a) Continuing with the existing arrangements whereby in many cases Railtrack accepts bids before access rights have been approved. There is, however, a risk that services are included in the timetable without valid contracts because the Regulator finally does not approve the rights. In such circumstances there is a risk that this will result in an inaccurate timetable, and poor quality information for passengers. The Regulator therefore considers the current arrangements to be unsatisfactory.

- (b) Railtrack not accepting bids for which no access rights are held. The difficulty with this approach is that it extends the lead times for train operators and thus reduces flexibility to respond to market opportunities. Subject to the views of the industry, the Regulator considers that this loss of flexibility may not operate in the interests of passengers.
- (c) A new approach under which short term adjustments to access rights which are expressed in a flexible way do not need individual regulatory approval. This could be achieved by the Regulator using his powers to issue a General Approval to amendments to access agreements. This General Approval might cover amendments which only last up to three timetable periods (16-20 months) and which contain no Firm Contractual Rights. Such short term, flexible, rights would then be a matter between Railtrack and the relevant train operator, but regulatory approval would be required for longer term amendments, or those which contain Firm Contractual Rights. The interests of other operators in the effect of the exercise of the short term flexible rights would be protected via their ability to appeal against Railtrack's decision in the timetabling process.

4.7 The Regulator believes that option (c) represents an effective way forward, and is seeking views from train operators, Railtrack, and funding bodies on its practicability.

5. *Next Steps*

5.1 This document poses a number of questions about the timetabling process and associated arrangements. The Regulator is seeking by this document to collect industry views. It is likely that a result of these views, Railtrack or train operators may wish themselves to propose changes to the arrangements. Alternatively the Regulator may wish to propose changes. The next step by the Regulator will be to publish a summary of the results of the consultation exercise, together with propositions for future development and proposals as to who should take them forward.

5.2 Comments should be made in writing and sent to

David Chapman
Manager, Railtrack Regulation
Office of the Rail Regulator
Waterhouse Square
138-142 Holborn
London EC1N 2ST

by Friday 19 December 1997.

5.3 37. It is our intention to place copies of all comments received in the ORR Library. Submissions made in confidence will be accepted, but should be clearly marked as such. Where a submission is made in confidence, it should be accompanied by a statement to be placed in the ORR Library that a confidential submission has been made, giving the reasons why the submission was made in confidence, and summarising that submission excluding the confidential information.

OFFICE OF THE RAIL REGULATOR

OCTOBER 1997

Annex A - Summary of timetabling process

1. Access rights are exercised through the timetabling process contained in Part D of the Railtrack Track Access Conditions (the "Access Conditions") which are incorporated in every new access agreement entered into by Railtrack since it was established in 1994. Key elements of the timetabling process are:
 - Railtrack, via a consultative process, produces the Rules of the Plan and Rules of the Route which set out key parameters for timetable planning and details of engineering possessions and speed restrictions;
 - train operators (both passenger and freight) bid to exercise their access rights, and Railtrack considers, having regard to any firm rights the operator has in his access agreement and a set of Decision Criteria (see Annex B) based on the Regulator's section 4 duties, whether it should accept, reject or flex each bid. Railtrack then makes an offer;
 - the bid/offer process is to some extent iterative. In practice there are two bid/offer cycles for Mondays to Saturdays, although only one for Sundays;
 - Railtrack's decisions are subject to appeal through the industry's access dispute resolution procedure and ultimately to the Regulator;
 - Railtrack then produces a timetable. There are two principal timetables each year based on passenger change dates in late May/early June and late September (essentially defined by the dates on which timetables change on other European railways);
 - a further process whereby operators can make "spot-bids" to use spare capacity which still exists.

2. The timetabling process has been in place since 1994. However, since then restructuring and privatisation of the operation of the railway has been substantially completed. In addition, experience with the process, and also a strong wish to improve the timeliness of information to passengers, has led to some changes:
 - the original process contained six bid/offer cycles and was designed to create a series of continually evolving timetables each lasting approximately eight weeks. This was found by Railtrack to be unworkable in practice and as noted

above the process now starts with a separate process for the Rules of the Plan and Rules of the Route; has fewer (but longer) bid/offer cycles, and focuses on two timetables each year;

- as a result of industry commitment to improving passenger information about train services, new processes have been devised which aim to ensure that an accurate timetable is available to provide such information at least twelve weeks in advance of any given day. This has led to the bid deadline being made somewhat earlier in the process, and also to the introduction of "mini-iteration" processes to deal with Bank Holidays and weekend engineering work. Full implementation of the twelve week target is planned for May 1998.

Annex B - Decision criteria

1. The Decision Criteria consist of the necessity or desirability of the following (none of which necessarily has priority over any other):
 - (a) sharing the capacity, and securing the development, of the Network for the carriage of passengers and goods in the most efficient and economical manner in the interests of all users of railway services having regard, in particular, to safety, the effect on the environment of the provision of railway services and the proper maintenance, improvement and enlargement of the Network;
 - (b) enabling a Train Operator to comply with any contract to which it is party (including any contracts with their customers and, in the case of a Train Operator who is a franchisee or franchise operator, including the franchise agreement to which it is a party), in each case to the extent that Railtrack is aware or has been informed of such contracts;
 - (c) maintaining and improving the levels of service reliability;
 - (d) maintaining, renewing and carrying out other necessary work on or in relation to the Network;
 - (e) maintaining and improving connections between railway passenger services;
 - (f) avoiding material deterioration of the service patterns of operators of trains (namely the train departure and arrival frequencies, stopping patterns, intervals between departures and journey times) which those operators possess at the time of the application of these criteria;
 - (g) ensuring that, where the demand of passengers to travel between two points is evenly spread over a given period, the overall pattern of rail services should be similarly spread over that period;
 - (h) operators of trains to utilise their railway assets efficiently and avoiding having to increase the numbers of railway assets which the operators require to maintain their service patterns;

- (i) facilitating new commercial opportunities, including promoting competition in final markets and ensuring reasonable access to the Network by new operators of trains;
- (j) avoiding wherever practicable frequent timetable changes, in particular for railway passenger services; and
- (k) taking into account the commercial interests of Railtrack and existing and potential operators of trains in a manner compatible with the foregoing.