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Dear Colin

Consultation on ORR Criteria for Approval of Changes to the Delay Attribution Guide

This letter provides Network Rail's response to the consultation on ORR's proposed Criteria for Approval of Changes to the Delay Attribution Guide.

Network Rail is content with the majority of the proposals contained within both the letter and the draft Criteria document.

We agree that any perceived commercial impact should be identified by the sponsor in the proposal and that potential solutions should be included. We accept that DAB can neither disregard concerns over the commercial impact of any Proposal for Amendment, nor have a role in resolving such concerns or in providing commercial advice to ORR when submitting any proposal under Condition B2.7.1.

However, we do not consider that it would be appropriate for a full impact assessment to be provided at this stage. Clearly, ORR, when considering a proposed change, can request that Network Rail produces an Impact assessment if any party has raised significant commercial concerns about ORR approving the proposed change. In the absence of such concerns, the production of an Impact Assessment is unnecessary and simply increases bureaucracy and cost.

Nor do we believe that it would be appropriate for DAB to make comment on any such impact or the possible solution(s), in particular on whether or not to postpone changes until the next ORR access charges review. We believe that it would be more appropriate for ORR itself to determine whether or not any financial adjustments should be considered, and, if so, when such changes should be implemented. Network Rail accepts that, under such circumstances, it is the most appropriate body to consider the industry-wide implications of any such determination.

We further consider that "commercial solutions" should only be considered when the impact is significant (i.e. equivalent to triggering the materiality threshold required when considering recalibration of the performance benchmarks under the existing schedule 8 mechanism).

I can confirm that I am content for this response to be published in full on the ORR website.

Yours sincerely

Nic Coome
Access Contract Policy Specialist.