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Re: PR08: Changes to the passenger performance regime (Schedule 8)

Dear Iain

Thank you for the opportunity to comment on the proposed scope of changes to the passenger performance regime in PR08. We are comfortable with ORR's plan for how to carry out the work and with the main subject areas which it expects to cover in this review, particularly in light of the recent review in 2005. We believe that the key milestones envisaged are realistic, although we would also hope to see some alignment with the timing of outputs from the Schedule 4 review, given the link between the performance and possessions regimes.

Focussing specifically on the proposed main areas of work, we would like to add the following initial comments:

Network Rail and TOC benchmarks:

We agree that it is the right time for benchmarks to be recalibrated, even though the timescales of several franchise remapping exercises might add to the complexity of the recalibration.

We note that ORR expects the recalibration work to differ from previous reviews, using the Strategic Business Plan (SBP) to inform benchmarks "rather than relying mainly on historical performance". We would like to clarify what we understand by this, and how we envisage the recalibration work proceeding.

We envisage that Schedule 8 benchmarks will – in conceptual terms – be set based on a combination of:

- (a) current (or more precisely, recent historic) Schedule 8 performance;
- (b) the anticipated improvement between current performance and the end of CP3; and

(c) a performance improvement profile over CP4 that reflects the performance targets that Network Rail is set in the review.

We would expect that (b) and (c) will be based on the Strategic Business Plan. More specifically, (b) is likely to be based on our recently published 2007 Business Plan; and (c) is likely to be based on the output of the Long Term Performance Model (which will underpin the performance projections in the SBP).

However, there is still likely to be a need for some analysis of historical data to inform (a), i.e. the base level of Schedule 8 performance to which the performance improvement profiles (b) and (c) can be applied. This is because, although the Long Term Performance Model generates projections of Schedule 8 performance by service group over CP4, it does not do so in a way that is entirely suitable for recalibration of Schedule 8. Most importantly, the model does not distinguish between TOC-on-TOC and TOC-on-self delay, which is an essential distinction for Schedule 8 purposes.

There are also other reasons why it will be either necessary, or at least very helpful, for the recalibration to be based to some extent on analysis of historical data:

- Analysis of historical performance will be necessary in order to reset the TOC payment rates, as this requires more detailed data than is captured in the Long Term Performance Model.
- Having a calibration dataset that is disaggregated to monitoring point level also provides a simple and relatively non-controversial means of making any amendments to benchmarks during the control period, for instance as a result of service changes or berthing offset changes.

We would be happy to discuss with ORR in more detail the outputs and methodology of the SBP and how it could be used in the recalibration exercise.

TOC payment rates

We agree with the proposal to re-examine TOC payment rates and to consider the impact on payment rates of changes to passenger charter arrangements. We would also suggest that the methodology for calculating Passenger Charter Access Charge Supplements (where they are still in place) is reconsidered, to reflect increases in operator revenue.

Sustained Poor Performance (SPP) threshold

We would in principle support the idea of research to determine the point at which the SPP threshold should be set.

However, it is important to recognise that there is no evidence of which we are aware, either from practical experience or from research, to suggest that there is *any* point at which “normal” Schedule 8 compensation rates become insufficient. Further, given the difficulties of directly measuring the impact of performance on revenue, we believe there would be a very high risk that any research would in practice be

inconclusive. We therefore have reservations about the value of further research in the context of the review.

In order to reduce the risk of the threshold being breached through random variation in performance levels, we would, however, suggest that further consideration be given to the degree to which variability of performance around expected levels will change over time.

Other issues

We are happy to consider both identified issues during the forthcoming review (uplifting the Network Rail payment rate to reflect changes in operator revenue, and revisiting the dispute process in paragraph 17).

Additional scope items

Whilst we acknowledge that the items listed in your paragraph 21 are suggesting items for review rather than proposals in themselves, the third suggestion (“whether there is a difference in effect on revenue where the length of that incident of lateness is significant”) raises some concern. First, the payment rate represents the revenue effect of one minute’s average lateness across the whole day, so is in effect an average rate already, reflecting the impact of all lateness whether short or long. Moreover, even if that were not the case, attempting to address individual lateness incidents would actually necessitate a change to the structure of the regime, which the industry meeting in January concluded was not the intention of this review.

Network Rail does not consider that these items need to form part of the review. However, if there is evidence that there is benefit in doing so, we would support this.

We look forward to the industry meeting on 15 June, but please contact me if you would like to discuss any of this further in the meantime.

Richard Wall
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