

Les Waters  
Manager, Network Regulation  
Office of Rail Regulation,  
1 Kemble Street  
London  
WC2B 4AN

Date : 01 November 2007

Tel: 020 7200 3912/07793 369583  
E-mail: durhaml@Freightliner.co.uk

Dear Les,

### PERIODIC REVIEW 2008 : NETWORK RAIL'S OUTPUTS

This is the response of the Freightliner Group Ltd (Freightliner Ltd and Freightliner Heavy Haul Ltd) to Periodic Review 2008: Network Rail's outputs - A consultation document.

### INTRODUCTION

Freightliner Group Ltd (Freightliner) supports the overall aims of ORR's approach to measuring Network Rail's outputs. The difficulty is getting the balance between the various outputs to ensure that perverse behaviour is not unwittingly encouraged.

There is currently a distinct lack of incentives particularly focussed on freight performance and growth. We therefore welcome ORR's proposals to introduce separate measures for freight performance.

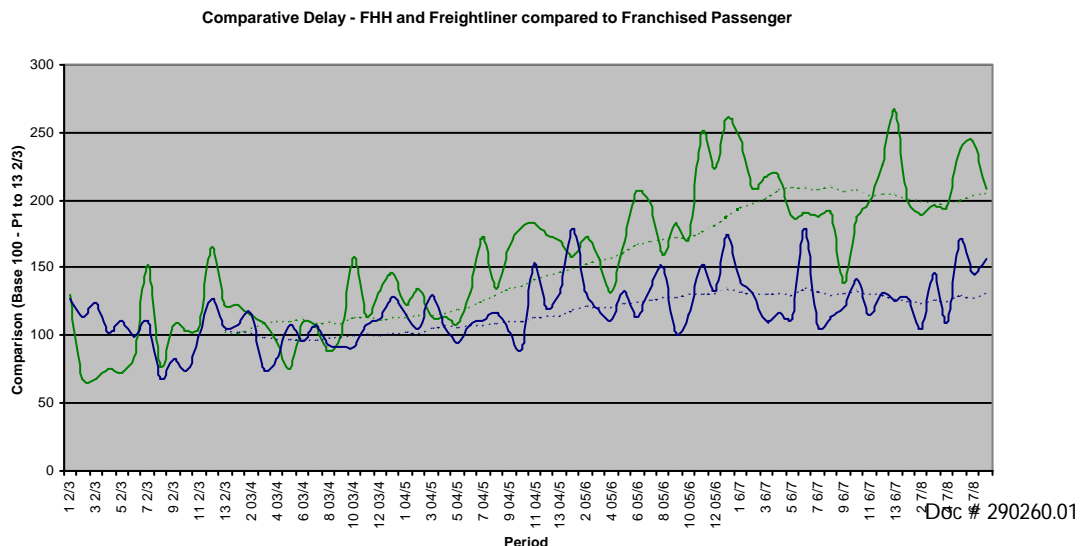
We remain particularly concerned about whether there should be incentives on Network Rail to grow rail freight and manage possession planning more efficiently.

### TRAIN PERFORMANCE

#### Delay minutes

We welcome ORR's decision to introduce a measure for freight performance and that the correct metric is delay minutes per 100 train km.

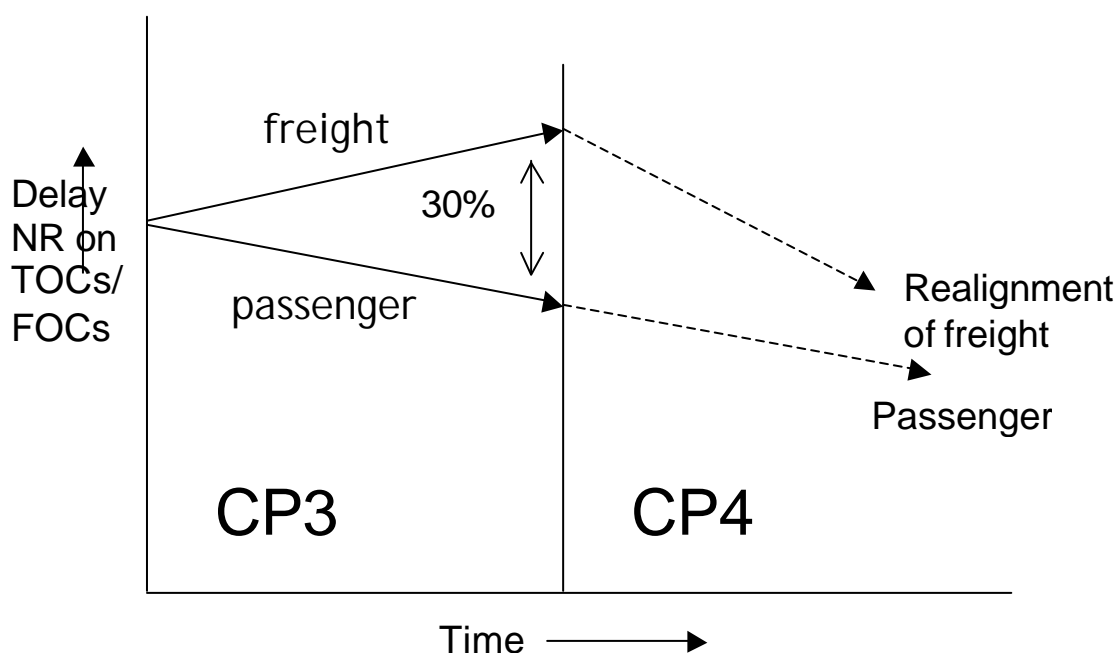
It is clear that since the introduction of PPM there has been a worsening in delay caused by Network Rail to freight services. Please see below graph:



This graph shows delays to Freightliner Limited and Freightliner Heavy Haul Limited caused by Network Rail relative to Network Rail delays to all passenger franchised operators. The data is baselined at 100 on the financial year 2002/3.

It is therefore essential that a performance measure for freight is given an equal standing with a performance measure for passenger.

We would also expect targets to be set in a similar way to the targets for passenger performance. We would like to discuss with ORR at what level targets should be set. We would expect targets to be higher than those for passenger operators as performance relative to passenger and indeed in net terms has worsened over CP3, not improved. See illustrative graph below:



Many people are uninformed about the importance of on time delivery of freight services. For example containers have to be delivered to customers within a +/- 15 minute window, coal services are timed into power station every 30-60 minutes so that coal can be delivered directly into the power station rather than to stock piles which are costly to the power station to utilise. Utilisation of locomotives and wagons are vital in controlling a freight operator's costs and therefore the rail freight industry's ability to compete with road.

In our view more is needed to be done by Network Rail to promote this message internally, for example by displaying freight performance data on screens with Network Rail offices, controls and signalboxes. Network Rail advise us that they are currently working on introducing such visibility by the end of 2007.

Freightliner would like to see performance monitoring at least broken down by Network Rail Route. We have just started to receive performance data from Network Rail broken down by Route, but it is totals not per 100km. This makes it difficult for us to compare Routes and understand where problems are occurring. For example our perception is that Freightliner Heavy Haul gets many more performance problems on the London North Eastern Route than other routes, this route is also the biggest Heavy Haul route. If we had

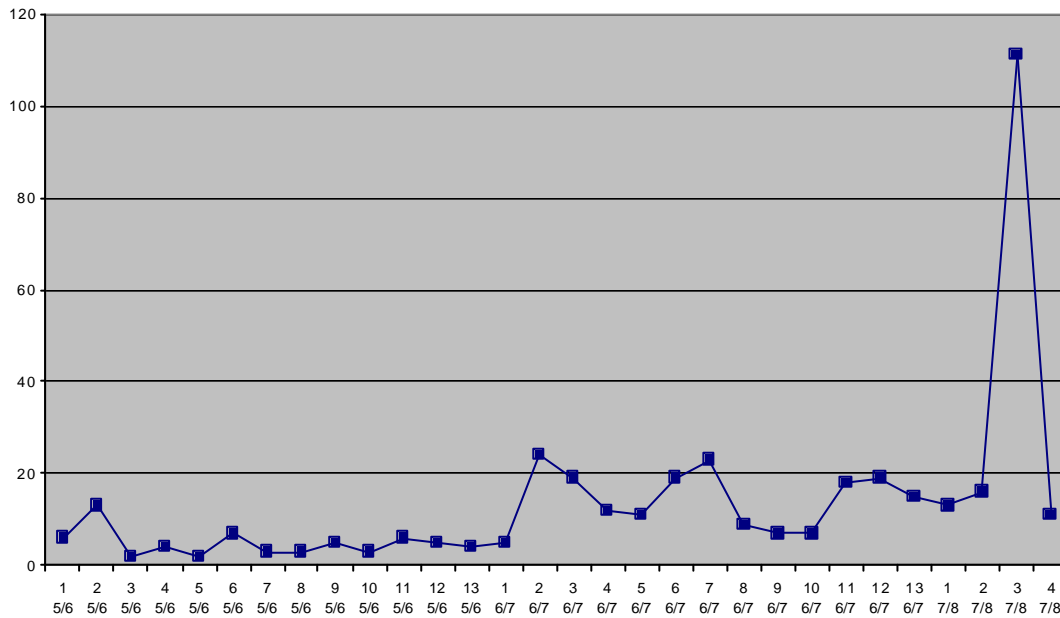
data per 100 train km we could really understand where performance was worse and focus on action plans with Network Rail. We also believe that if comparable data was produced by Route there would be competition between the Routes who would not want to be the worst Route, this would push up performance levels.

### Cancellations

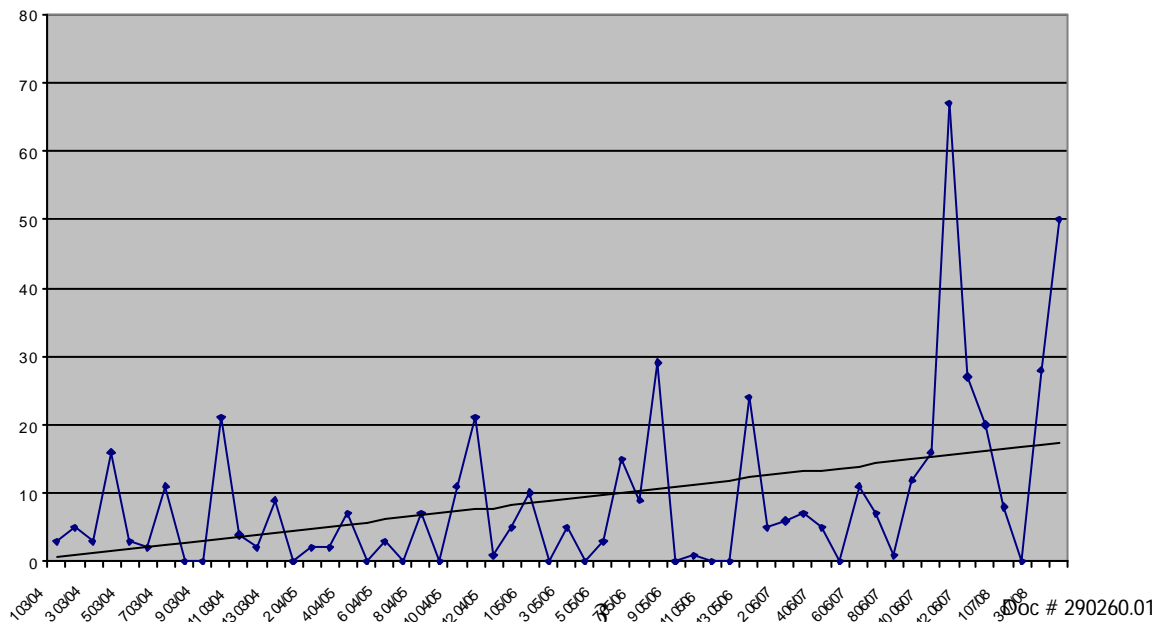
However delay minutes are not the only measure that is important to freight operators or their customers. Cancellation of a train causes even more damage to goodwill with customers and customer's supply chains than minutes delay.

It is paramount that a parallel measure of freight train cancellations caused by Network Rail is also measured. Unfortunately this is particularly pertinent because the volume of Network Rail cancellations of Freightliner services has risen alarmingly over the last few years, even taking into account growth in the number of services operated by Freightliner. A measure of cancellations per 100 train km would take into account fluctuations in business levels.

Freightliner Heavy Haul – Cancellations attributable to Network Rail



Freightliner Intermodal – Cancellations attributable to Network Rail



It is also vital that any measures introduced are not in contradiction to freight operator's contracts. Indeed particular care is needed to ensure that the right contractual incentives are in place from the start of CP4 as there are flaws in the current regime. The ORR is currently leading a review of the Schedule 8 within freight operator's contracts. This is welcomed by Freightliner particularly as the proposal is that all freight operator's will have the same regime, which is vital in a competitive market.

Freightliner is concerned however in respect of the existing caps on performance regimes. The decline in Network Rail's performance coupled with the improvement in Freightliner's performances has resulted in payments by Network Rail being capped out. Once payments are capped Network Rail have no incentive to improve performance, in fact they have an incentive to do just the opposite, which is to delay Freightliner's trains in favour of other operators, like passenger operators who have an uncapped performance regime. This may be another reason why Network Rail's delay to freight have increased in recent years whilst delay to passenger operators has decreased.

The sole purpose of freight operator's performance caps was to protect the freight operator's risk of out payments. It should therefore be the choice of the freight operator how much risk he wishes to bear. They were never intended to be a cap to protect Network Rail's risk, Network Rail are a much larger organisation who can afford to take on larger risks. Therefore the purpose and levels of freight caps need to be reviewed to ensure that they are aligned with the proposed performance measures.

Similarly the current Schedule 8 payments for freight train services do not adequately compensate freight operators for their costs and losses when a service is cancelled, nor for the loss of goodwill with customers. We also believe the current levels of around about £1000 do not adequately incentivise Network Rail not to cancel our services. The higher the level of cancellations the higher the more goodwill is lost with customers and increased risk of loss of business. This is why we have suggested a benchmarked regime, whereby payments rise if cancellations exceed the set benchmark.

### **Service Variations**

Another key component to understanding Network Rail's overall performance is service variation payments. Many of these performances relate directly to day to day problems on the Network whilst others relate to disruptive possessions advised to us with under 84 days notice. Claims are made when trains are rescheduled over an alternative route or later (subject to the criteria listed in Schedule 4 of our track access agreements). Such events are of course disruptive to freight operators and their customers, sometimes severely when trains are rescheduled to run several hours later than planned, or capability (such as gauge clearance is lost because a train is diverted).

It could also be argued that the rescheduling of services to later times etc is in fact hiding the delay minutes that are really there. Unlike passenger services where rescheduling is sometimes used to cleanly restart the timetable after an incident, rescheduled freight services are simply late, certainly in the eyes of a customer.

In terms of levels of service variation claims these have risen year on year (even taking into account Freightliner's growth). Therefore it is essential that service variation levels are measured as well as performance minutes and cancellations.

### **NETWORK CAPABILITY**

We note the work that Network Rail have undertaken on routes where there was a discrepancy between the actual and published capability. We understand the work as directed by ORR is largely complete however, we have just this week received the first complete Network report on Route Availability. We also have one or two outstanding issues where little action has been taken.

However very importantly there is a key discretion that has not yet been addressed. This is the physical layout of the Network. There are crossovers, loops etc which have been removed or have been out of order for some years for which the Network Change process has not been undertaken. An example of this is Monkhill Loop near Pontefract which has been out of use for about 4 years but no Network Change has been undertaken, this loop would be a very useful regulating point for trains entering Ferrybridge power station and we have repeatedly asked that it is re-instated. Unfortunately it has deteriorated to such a state that we are advised that it would cost £750k to re-instate and the stalemate continues.

It is obviously not appropriate to base capability on the Network as at 1<sup>st</sup> April 2009 until the work on mismatches between published layout and actual layout are complete. We therefore suggest that the base of 1<sup>st</sup> April 2001 continues to be used until these discrepancies are resolved.

We seek clarity on what is meant by "documents to describe network capability at that time". Previous experience has taught us that clarity is absolutely vital in this area. We suggest that ORR list the appropriate set of documents for each element of capability.

### **Tonnage capability**

Freightliner is very concerned over the proposals to introduce this measure by Network Rail and the consequences to the rail freight business.

In discussions with Network Rail we have repeatedly asked for more information both on individual routes where they anticipate issues and how such a system might be implemented in practice, but we have received no feedback. Consequently we have many questions and concerns.

What would happen if a route reached its annual tonnage capability in February - are Network Rail going to stop trains?

How will any necessary brought forward renewals be funded?

Is there any affect on track access charges if a route reaches its tonnage capability?

There is also little detail in the ORR's consultation paper. Until we understand about the proposed process and the proposed risk on routes we are unable to support this proposal.

We fear that Network Rail wishes to ban freight traffic on some routes on the Network. This may be the right thing to do where there are routes that are never going to be used for freight, however until we understand Network Rail's proposals we can only be fearful that they wish to prevent future rail freight growth on certain routes. Some routes that may not be obvious freight routes are required for diversionary purposes.

As rehearsed at length in the current review of freight track access charges freight operators must have certainty of charges in order to plan their business. Any increase in charges could not be passed on to customers. The ORR concluded that with the exception of coal, nuclear and iron ore traffic freight operators could only afford to pay for the marginal costs of using the Network in line with EU Directive 2001/14.

We are very supportive of Network Rail using this measure internally. It is absolutely the right thing for Network Rail to understand which parts of their Network are vulnerable to the effects of additional traffic and to monitor and take remedial action to ensure every Route is fit for purpose. Freightliner is happy to ensure that Network Rail understands its planned new business so that Network Rail can ensure that they have planned accordingly.

Network Rail should already be planning for freight growth in line with the forecasts in the Freight RUS. In reality the forecasts will not be totally accurate and there may be some routes where growth is bigger than forecast, whilst there will be other routes where growth

is less than forecast. We would expect NR to carefully measure actual growth versus forecast and revise their actions accordingly. It is also important that the forecasts in the Freight RUS are regularly revisited, at least every 2 years to make them as accurate as possible.

We understand that in the past Network Rail(Railtrack) were caught by surprise by the sudden growth of coal traffic from Scotland to England via the Glasgow South West route (GSW) and the Settle and Carlisle route (S&C). This has resulted in increased renewal work being planned on these routes than previously planned. This was a unique situation caused by closures of coal mines in the UK, resulting in a sharp increase in the amount of coal being imported. Our perception is this one event has made Network Rail extremely cautious of large changes to the patterns of rail freight. This is not going to happen again, the movement of coal is going to continue to be from ports from the foreseeable future.

Other major growth in CP4 is expected in the deep sea container market. The ports and the major conurbations of the UK are not going anyway so it is highly predictable on what routes growth will arise. Similarly growth of aggregates will be from rail connected quarries to conurbations, this is also pretty predictable.

There are some routes where considerable freight growth is highly predictable where freight does not currently traverse:

Hellifield to Blackburn: we understand this route is currently not suitable for freight traffic. It is known that freight traffic will be diverted onto this route from the WCML, purely because of the proposed new Virgin trains timetable. This is predictable, and should already be planned for by Network Rail in CP4.

Felixstowe to Nuneaton (cross country). The gauge clearance on this route will result in a step change of services as capacity in and from Felixstowe port increases.

We would expect predictable changes like these to be already incorporated within Network Rail's plans.

## **NETWORK AVAILABILITY**

Freightliner welcomes measures to introduce KPIs to reflect disruption caused by engineering possessions. It has proved very difficult both for the industry and for Steer Davies Gleave to come up with a meaningful measure.

Disruption caused by engineering planning is a major issue for Freightliner.

Our perception is that management of possession has not improved over the last few years. On average every week we receive about 25 notices from Network Rail requesting possessions outside the industry timescales. Some of these are disruptive to our business and some are not but we have to check every single one as we have two national operating companies. Passenger compliance to T-12 is monitored by the ORR but there is no monitoring of short notice disruptive possessions to freight operators. This is a real and considerable problem and we would like for this to be measured.

On top of unplanned possessions emergency possessions cause considerable anguish. We have requested that Network Rail measure emergency possessions, to which they agreed but we have only received a few periods data for a couple of the routes. We perceive that some "emergency" possessions are not really emergencies but poor planning. Because of the monitoring of T-12 possessions late notice possessions must be signed off by senior managers in Network Rail, emergency possessions do not require such sign off. This situation creates a perverse incentive to call late notice possessions "emergencies".

We therefore request that both late notice freight disruptive and all emergency possession levels are monitored.

We do not believe that an overall measure of network available by km will have any meaning. Freightliner's view is that it is the disruption to operators that should be measured not the Network. In our view whatever Network is closed, if it is not disrupting operators, that is good management by NR. Therefore we urge ORR to consider a KPI that reflects disruption caused to freight operators. Discussions are currently ongoing regarding a revised Schedule 4 for freight operators, the simpler mechanism that is currently being discussed may lend itself to easier monitoring of disruption.

All measures of Network disruption will be particularly important if the seven day railway concept is taken forward.

## **CUSTOMER SATISFACTION**

Customer satisfaction from Network Rail is vital to our business. We currently receive very mixed customer service. It must be recognised that a lot of people within Network Rail make every effort to make our business a success. There are others though who do not understand our needs or are solely motivated by internal targets who do not provide the service that we would expect from "a world class company" or that we would give to our customers. Sometimes the service we receive is just poor.

The monitoring of customer satisfaction is therefore a very important area to Freightliner. We would urge the ORR in setting an output target to encourage Network Rail to make more effort to support our needs.

It is of course important that Network Rail staff have incentives that target performance minutes, cost control and asset quality. However such incentives can encourage staff to aim for these targets above all other needs - like running trains.

Particular areas of concern for us are possession management and rescheduling or cancelling of trains to reduce performance minutes (even though the effect on the customers is worse than it would have been). Another one is Network Rail's ability to quickly deal with small freight incentives at a reasonable price, Network Rail's track record here is to be honest dire.

There is currently no code of practice on how to deal with customers. For example, even letters to Directors sometimes go unanswered. There is often a general lack of urgency in dealing with our needs.

We urge the ORR not to overlook the importance of customer service.

## **Incentive to grow freight business**

We note that there is no proposal to include an incentive on Network Rail to grow the rail freight business. Local managers in Network Rail are often not keen to see additional trains in the timetable as they fear additional trains will affect their performance figures.

Freightliner would like to see an incentive on Network Rail to grow rail freight. This would push Network Rail into taking more ownership of some of our challenges.

Unfortunately freight operators can not afford to pay for an incentive directly to Network Rail but as much of the benefit of increased rail freight is to the economy (via reduced congestion and efficient delivery of goods and to the environment) it would seem appropriate that such an incentive could come via the DfT in the form of an increase to the Regulatory Asset Base(RAB) which would enable future further investment.

We would also welcome any other ideas that the ORR have in respect of incentivising NR to grow rail freight.

## **NETWORK PLANNING AND TIMETABLING**

Network Rail have made considerable improvements in train planning over particularly the last 2 years. There are still some areas where we would like to see further improvements.

Freightliner would welcome some basic measures such as: Do Network Rail make a complete offer of the timetable to operators in line with the Network Code? This area has much improved after many poor years, but we would not want to see a future decline because focus was elsewhere.

In particular we would like to see earlier timetabling around engineering work, especially major blockades. We expect the timetabling work to be done when a major blockade is being planned but it frequently is not. This is vital so that operators can understand how their train plan will be affected before they accept a major possession.

## **OTHER SECTIONS**

On the sections in ORR's consultation where we have made no comment we support in broad terms the proposals made by ORR.