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Dear Andrew

ORR's Sustainable Development & Environmental Duties consultation.

Thank you for giving HSBC Rail the opportunity to comment on the above consultation. Sustainable development is a subject of wide public interest, and clearly ORR has a key role in helping the rail industry maintain its good environmental performance into the future.

1. Issues of principle

It is clear from the presentations at the workshop held on the 24th November that each sector of the UK rail industry is taking sustainable development very seriously. We believe sustainable development is each company's responsibility, and we are keen to support the collective approach being taken by RSSB. Whilst it is important that ORR's duties are aligned with the industry, we see ORR's role as one of support rather than leadership in this area.

Sustainable development is an area of rapidly developing knowledge: what may be considered as best practice today may not be acceptable tomorrow. "Good" can also be influenced by perspective. This creates the risk that regulation can result in perverse incentives. For example new trains being heavier may be considered as "bad" from an energy use perspective, but if the performance and ambience they provide creates a mode shift they may still deliver a wider sustainability benefit to society. We therefore believe that any ORR regulation should be of "light touch", informed by current rail industry research and designed to ensure that flexibility in meeting customer needs is always maintained.

We agree that the industry should publish a common set of key performance indicators (KPIs) and see a role for ORR to coordinate this, partially through license conditions. Whilst there are many KPIs that could be collected, ensuring those that are published, quoted to a common basis and easy to understand is likely to be challenging. We therefore subscribe to the view expressed by the majority of the audience at the workshop that KPIs should be restricted to five or six and subject to review and change as our knowledge in this area develops. We do not see a role for Network Rail in the collection and publication of cross industry measures.

We believe that ORR need to press Network Rail to take more account of sustainability in business cases and invest on the basis of industry whole life rather than first capital cost. We see value in ORR challenging Network Rail's accepted practices, and benchmarking their performance against international measures of efficiency.

2. More detailed points

In making more detailed response to the points raised in your consultation I have cross referenced the summary of issues given in Appendix A where relevant.

We believe some further clarity in how Network Rail takes account of sustainability in route utilization studies would be useful (g). We suspect that whilst NR HQ may fully appreciate the benefits of a whole life cost approach to capital investment, this message may not be reaching the regions.

Whilst we subscribe to the "polluter pays" principles, we caution that there must be parity across transport modes. Modal shift will occur if rail is exposed to its full environmental costs when other transport modes are not (m). Any new environmental charge would need to be simple, fair and cost neutral.

The reasons for the recent increase in new train mass are many and complex. A high profile focus on reliable train performance, uncertainty about future track condition, the introduction of new standards and the incentive structures in place with train suppliers have all contributed to weight increase. It is unlikely that any of these factors would be significantly influenced by a further increase in the weight related component of access charge (l). Indeed, increasing the operating cost of newer trains may only serve to keep older, more polluting vehicles in service longer. We believe that ORR's greatest opportunity to affect future train mass is to provide Network Rail with the right incentives to guarantee and underwrite future track condition, allowing manufacturers to be less conservative in the load cases they use during vehicle design. This has the potential to deliver a virtuous circle of improved track leading to lower mass vehicles (that require less energy) that in turn cause less track damage, leading to less track maintenance in the longer term.

We strongly support the widespread adoption of on-train energy monitoring (n). As discussed in our response to the track access consultation in September, we believe that

metering of even just a representative sample of vehicles would provide a more accurate calculation of energy use than the existing DeltaRail model. Train metering equipment is already fitted to some modern trains and its use could pave the way for providing an incentive to Network Rail to enhance maintenance of the electrification equipment, reducing system losses. We look forward to ORR introducing an incentive regime to stimulate the adoption of this charging system at the next Periodic Review.

3. Further Points

We note that there is no mention of the emissions trading scheme as an incentive mechanism for improving emissions. Some TOCs are likely to be covered by the extended scope of the ETS next year. This could provide a mechanism for the UK railway to obtain funding for energy saving programs.

There have been a number of government funded initiatives to improve Road Vehicle emissions. In 2004 the Road Haulage Modernization Fund gave private lorry owners £34M to fund the installation of emission control equipment based on the wider benefits it brings to society. With higher duty cycles and longer asset lives, there is a strong case for fitting appropriate technology to rail vehicles. Currently there is no incentive scheme to off set costs for rail. We believe ORR has a role in promoting the benefits of such an initiative to Government and possibly administering such a scheme through the Energy Savings Trust.

We hope that the above comments are useful and we are content for them to be made publicly available through the usual channels. If you would like to meet to discuss any of the points made in more detail please do not hesitate in making contact.

Yours sincerely



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