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Dear Andrew

Consultation - ORR's Sustainable Development & Environment Duties

Thank you for the consultation document and the workshop held on 24 November.

Northern delivers local services across the whole of Northern England and these services are all specified in the Service Level Commitment (SLC). The funding arrangements within the Franchise Agreement include support payments from DfT and PTE's to fully fund the operation of the services specified in the SLC. The comments made below in response to the questions in Annex A of the consultation document are made against this background, and may not be relevant to all TOCs depending on the nature of their contractual arrangements. The responses are referenced to the individual questions in Annex A.

The Northern franchise started in December 2004 and inherited rolling stock, stations and LMDs from previous franchisees. The condition of these assets and the extent to which they contribute to the environmental performance of the current franchisee, is a direct result of decisions taken some years ago when the assets were first brought into use. In a similar way, investment decisions made by Northern during the current franchise term will affect the environmental performance of the franchise for the life of new or refurbished assets.

In the negotiation of a new franchise, DfT and the franchisee will agree the framework for investment that will take place during the franchise term. Decisions taken at this stage will influence the environmental performance of the industry for the life of the assets.

Question (a)

Northern welcomes the proposed objectives and the recognition that elements of sustainable development are being taken forward by several industry bodies. Northern is in the process of formulating a company Environment Plan, and this will address issues raised in the consultation document, pending ORR publishing its conclusions.

Question (b)

ORR is focussing on the environmental and economic pillars of its own work on sustainable development. Northern has a strong commitment to sustainable communities set out in its Community Plan objectives including measures to combat social exclusion through an integrated approach. ORR is involved with issues of closure policy, fares, ticketing systems and service levels and ORR policy in these areas should be reviewed in the context of sustainable development. Northern believes that closure policy should be strengthened to take into account the social pillar of sustainable development.

Question (c)

ORR proposes to focus on the environmental and economic aspects of sustainable development (3.9), but Northern would be concerned if the industry viewed the “social” pillar as less relevant than the “environment” and “economic” pillars. It must not imply that social inclusion has a lesser priority merely because ORR is not focussed on it. Northern believes that ORR should have some expertise on the social aspects of sustainable development to influence its work on sustainable development and other policy areas including closures.

Northern stresses the importance of accessibility to all sectors of the population, including both the mobility impaired and those who are experiencing poverty and unable to afford the costs of transport. ORR should adopt policies that support modal shift and integration between sustainable modes. The franchise agreement is silent on the social impacts of sustainable development. Northern supports the recommendations made by Enviro that ORR should produce a policy statement, establish KPIs and monitor performance.

Question (d)

The development of KPIs that can be published is a first step towards the industry understanding the current position and then being able to measure change over time. (3.19) The KPIs chosen must work at company level as well as at an industry level. Management action will be needed to change behaviour and a comparison of company KPIs against national average will allow best practice to be identified. An industry approach to the sharing of best practice should lead to the development of action plans to improve results.

Question (e)

The table (3.19) is too narrowly focussed and does not reflect the key role that rail has to play in social and economic regeneration and achieving social inclusion. For example, the identification of ways to reach socially excluded groups to encourage them to travel by train is just as important as resolving customer complaints. Success with the first is difficult to quantify, but the latter is much easier to measure. The industry must not fall into the trap of avoiding certain issues because they are difficult to quantify.

Northern supports the RSSB workstream to develop KPIs and the publication of results at industry and company levels. The publication of KPIs at company level may be affected by the impact of long life assets that a company may not be resourced to modify or replace. In principle, information for KPIs should be constructed using available data and not create an additional administrative workload. Northern would recommend a voluntary approach based on the RSSB work with a single focus for the collation and publication of the results. If ORR can justify compulsion, and a full industry picture is required, there are parts of the industry that are exempt from licensing and/or the Network Code (and future Station/Depot Codes).

Question (f)

The 1996 ORR environmental guidance should be reviewed and expanded to cover sustainable development. The review should identify potential changes to licence conditions and consider whether the current exemptions from the licensing regime can continue to be exempt from the environmental provisions. Any revised wording concerning enforcement should recognise the extent to which a franchisee was originally funded to deal with additional liabilities arising from any changes to the licence conditions. The production of TOC specific KPIs is supported (see question (d) above), together with recognition that it may be difficult to track TOC performance through a major re-franchising round. The start point for a new franchisee will be based on the policies of previous franchisees, and planned investments in this area will reflect the funding package agreed with DfT. An annual report on all sustainable development activities should also reflect any funding constraints.

There is no specific reference to the management of stations to sustainable development principles. Network Rail and TOCs should be encouraged to identify innovative approaches to

station design and operation. Northern is developing a concept of “eco stations” that would aim to reduce the environmental footprint of medium and small sized stations.

The Treasury has recently suggested that not-for-profit organisations should be able to make redundant local authority assets available for the use of community organisations. Northern would welcome a similar approach in the industry, subject to the necessary safeguards.

Question (g)

Northern agrees with ORR’s proposal that both Network Rail’s Business Plan and the RUS process should take account of sustainable development issues.

Question (h).

Part E should be reviewed to ensure that it remains fit for purpose and to clarify whether normal day-to-day operating issues should constitute an “Environmental Condition” or whether Part E should apply only to exceptional one-off events.

Question (i)

A mechanism should be in place that allows RSSB and/or ORR to fund sustainability research where existing knowledge does not transfer to the rail environment. It is reasonable to expect RSSB and/or ORR to be funded to carry out this work

Question (j)

The incentive based regulation of Network Rail by ORR (4.4(a)) must include sustainability within the “required outputs”. If the use of electricity is to be put forward as a principal traction energy source, there must be specific action taken to create long-term price certainty and stability. The current “wash up” provisions for EC4T do nothing to influence TOCs to adopt coasting or other energy saving driving behaviours. Northern believes that metering is a must. Northern recognises no obstacles to positive environmental decisions.

Question (k)

Some of the potential KPIs (3.19) that could form the basis of an Environmental Charge are already incentivised e.g. train reliability and performance is already incentivised by the Schedule 8 performance regime and the franchise agreement PPM mechanism. If meaningful KPIs are to be developed they must be TOC specific. Northern would like to see a further consideration of potential KPIs and comment on their likely incentive effect before signing up to them.

Question (l)

ROSCOs and manufacturers should be involved in this sustainability debate to ensure that sustainability is considered at the design stage, including re-cyclable materials for construction and easily disposable consumables. The financial arrangements for the purchase of new rolling stock are normally agreed between DfT and a franchisee, based on what is available in the market. DfT has therefore an important role to play in determining the emissions, fuel efficiency and weight of new stock that is to be brought into use on the Network.

Question (m)

It should not be necessary for ORR to incentivise TOCs to implement sustainable solutions where these are affordable, but it may be necessary to provide additional financial support for TOCs that are unable to fully fund sustainable solutions.

The operation of 18.1 type arrangements could mask an incentive if introduced as part of CP4.

Question (n)

Northern Class 333 units have a re-generative facility in use, and are fitted with meters. Northern is planning to activate the metering equipment on one unit to compare actual vs modelled consumption and determine whether the regeneration factor of 16.5% is actually delivered in practice.

Question (o)

Northern is not qualified to answer this question.

Question (p)

There is currently no mechanism to incentivise TOCs to make significant changes to the environmental development of stations e.g. the embryonic "eco stations"; to use rolling stock with lower emissions or to avoid the use of "heavy" vehicles.

Should both TOCs and Network Rail have access to additional funding to ensure that innovative sustainable development projects are implemented?

The consultation paper makes no reference to ORR's involvement in the DfT's Community Rail Development Strategy that supports the principles of sustainable development. The "community rail routes" can be used to identify innovative approaches to reducing environmental impacts and promoting social and economic sustainability

Yours sincerely

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