



Joanna Whittington,
Director,
Railway Markets and Economics,
Office of Rail and Road,
One Kemble Street,
London.
WC2B 4AN

First Greater Western Limited,
Milford House,
1 Milford Street,
Swindon.
SN1 1HL

29th January 2016

Dear Joanna,

PR18 Reviews of Schedules 4 and 8 of Track Access Contracts.

Thank you for your letter of 13th November and for the 27th November stakeholder event. We are grateful for the opportunity to provide input based on our experience of the contract and of the practical needs of the railway. It is good to have direct engagement with the ORR as it is not always certain that any particular group review is comprehensive, informed or in line with recent individual Train Operating Company ("TOC") experience.

We note that you will also have received a response from First Group: this reply is intended to complement and provide specific feedback from the TOC level.

Schedules 4 and 8 Suitability

In general First Greater Western Limited ("GWR") finds Schedules 4 and 8 fit for purpose. On the whole they provide an adequate mechanism for compensation for planned events and perturbation of the railway and in so far as they can they provide the correct incentive for the industry and its users. They are also tools that can assist in the justification of investment.

It is clear that the prime incentives on the industry with regard to engineering planning are the end users and the provisions of the Network Code. This equally applies to incentive on concentration of effort on train service delivery. Investment is justified by industry and wider economic benefit, rather than the effect on inter party money transfers.

There are a number of elements of fine tuning (particularly with Schedule 4) that might be worth further consideration in an effort to improve further smooth operation and appropriate incentivisation.

Fine Tuning of Schedule 4

We regard the following aspects as possible area of review for further optimisation:

- Capability to recover actual loss for severe Type 1 RoUs;
- Basis for assessing revenue loss;
- Proportionality of challenge for cost recovery;
- Adequacy of Schedule 8 Monitoring Points for Schedule 4;
- Greater incentivisation to provide train service rather than road replacement.

Severe Type 1 RoU

GWR has received recognition and praise for the way in which it has provided alternative passenger provision in response to the substantial possessions programme required for the Reading, Crossrail and GW Electrification enhancement schemes. These have been characterised by a combination of focussed and repeated Type 1 RoUs and also specific, substantial Type 2/3 RoUs.

Our response in customer provision is largely identical whether the passenger is affected by a Type 1 or a Type 2 or 3 RoU: the distinction is immaterial to the customer as the disruption experienced in relation to their rail journey is largely the same regardless of possession duration.

Although the prime driver for this response might be to preserve market demand in the long term (and support industry reputation), at the margin the ability to minimise actual losses can help justify specific provision, which include such mitigation measures.

If the materiality of the impact on the customer of certain Type 1 Restrictions of Use was recognised within the financial structure of a future Schedule 4, then this would go some way to securing consistency of approach across the range of RoU Types.

Basis for Assessment of Revenue Loss

This remains notoriously difficult to assess. At present the contract provides no guidance as to how this should be calculated in the event of disagreement. This has caused significant delay in achieving financial resolution and has potential to fray working relationships. In the absence of a universally accepted methodology, then the ORR might consider whether some guidance would be appropriate. For example the Type 1 revenue mechanism (with a suitable discount factor) could be taken as proxy for actual revenue loss in all cases.

Proportionality of Challenge on Claims

While actual costs can be relatively easy to assess, much industry time and effort (both of which are scarce and valuable) can be expended in looking in minute detail of a TOC claim once provided to NR to justify its reasonableness. Those within TOCs responsible for development of customer provision to Restrictions of Use do not always have the time to log each item with individual minute justification, so inevitably only a strategic justification of need can be provided. Provision in the contract of examples of adequacy may help remove delay from the process, which has excessive transactional costs attached at present.

Schedule 4 - Specific Monitoring Points

The practice of using Schedule 8 monitoring points for Schedule 4 purposes can result in possessions where adequate compensation is not provided as a result of not calling at key intermediate stations. To address this issue it could be useful to define a minimum percentage of service group revenue weighting to ensure those calling points of significant value to the service group are covered in both directions.

Notification Factor Incentives and Timely Planning

The notification factor serves its purpose as a mechanism to penalise and incentivise Network Rail for informing TOCs in good time given the increased financial cost of late notice. The 12 week window for advanced purchase reservations can mean a customer may book a train journey and may subsequently end up travelling on a bus without Network Rail being charged appropriately more for its late notification. Research from Transport Focus highlights that there is a strong dislike of bus replacement amongst customers: Network Rail ought be penalised further for any additional or altered possessions which increase that likelihood within the Informed Traveller threshold.

I hope the ORR will find the above comments of use.

Yours sincerely,

Robert Holder
Network Access Manager

████████████████████