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Dear Oliver

**ORR opinion (under our Managing Change Policy) on Network Rail's train mileage data update and impact on CRM-P**

Thank you for your letter dated 05 June 2020 outlining your proposed changes to the train mileage data used to calculate the Consistent Region Measure – Passenger Performance (CRM-P). We welcome Network Rail's improvement to the data accuracy and reliability of train performance systems and agree that the proposed changes maintain the original level of challenge set in ORR's Final Determination.

ORR recognises that changes can occur during the control period, which may impact on region and/or SO accountability and funding. Therefore, we developed our Managing Change policy<sup>1</sup> to ensure any changes relative to region or SO settlements, set in ORR's Final Determination<sup>2</sup>, are managed appropriately. This balances the need for Network Rail to respond flexibly to changing circumstances and providing greater certainty to the regions and SO (and their customers and funders) whilst ensuring accountability for the delivery of CP6 commitments. Our policy also supports us in comparing regions performance, across CP6 and beyond. Network Rail is required, under its Network Licence<sup>3</sup>, to comply with this policy.

As noted in your letter, this change is classed as a Level III Relevant Change under ORR's Managing Change Policy and requires an ORR opinion, which is set out in this letter.

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<sup>1</sup> [https://orr.gov.uk/\\_data/assets/pdf\\_file/0008/39329/pr18-managing-change-policy.pdf](https://orr.gov.uk/_data/assets/pdf_file/0008/39329/pr18-managing-change-policy.pdf)

<sup>2</sup> <https://orr.gov.uk/rail/economic-regulation/regulation-of-network-rail/price-controls/periodic-review-2018/publications/final-determination>

<sup>3</sup> Condition 4 'Managing Change' [https://orr.gov.uk/\\_data/assets/pdf\\_file/0012/3063/netwrk\\_licence.pdf](https://orr.gov.uk/_data/assets/pdf_file/0012/3063/netwrk_licence.pdf)

## **Impact of the change**

We note the changes will result on average in a three percent change to the current regional level reported CRM-P and CP6 trajectories<sup>4</sup>. As part of this change, we support Network Rail's proposals to update the in-year targets, long term forecasts and regulatory floors to ensure a consistent basis for reporting and monitoring CRM-P<sup>5</sup>.

We are also content for the year 1 CRM-P outturn to be restated to ensure consistent reporting across the whole control period and agree with your proposal to set this out in Network Rail's 2021 Annual Return.

We note that in your letter you have stated that this train mileage update will only impact CRM-P and that no other CP6 performance metrics are affected. Following recent exchanges with Network Rail, we understand that this train mileage update will also have an impact on the Freight Delivery Metric – Regions (FDM-R) data. We understand that Network Rail is writing to us separately about this matter.

Following discussions at our working level analytical meetings on the methodology and ORR's review of the associated outputs, we are content with all the revised CP6 figures presented in your letter. We also agree that the original level of challenge set in ORR's Final Determination remains, despite this change.

## **Stakeholder engagement**

As set out in our Managing Change policy, we expect Network Rail to engage with its stakeholders about changes relative to its settlement. This approach should be consistent with the principles of good stakeholder engagement<sup>6</sup>.

We welcome Network Rail's ongoing engagement with its regions/routes and note you are continuing to engage with train and freight operators on this change and the subsequent CRM-P figures. As noted in your letter, should any stakeholders raise any concerns on this change, please inform ORR as soon as possible.

## **Timings**

We welcome Network Rail's early engagement with ORR on this matter, allowing us sufficient time to consider this change, the implications and provide our opinion, as part of the decision making process.

We note the timings set out in your letter with the revised trajectories, floors and targets reported on from 14 August 2020 (Period 4).

## **Schedule 8 impact**

We are satisfied that Network Rail has undertaken a proportionate amount of due diligence. According to your analysis, the overall impact on Schedule 8 payments is likely to be negligible. However, there remains a small risk of unexpected fluctuations in payments for specific service groups and we expect Network Rail to investigate

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<sup>4</sup> Based on the CP6 trajectories presented in ORR letter of 19 June

[https://orr.gov.uk/\\_data/assets/pdf\\_file/0010/41311/holding-network-rail-to-account-letter-2019-06-19.pdf](https://orr.gov.uk/_data/assets/pdf_file/0010/41311/holding-network-rail-to-account-letter-2019-06-19.pdf)

<sup>5</sup> The methodology for calculating the revised regulatory floor remains as per the PR18 methodology

<sup>6</sup> The engagement should be effective, inclusive, well governed and transparent (p10)

[https://orr.gov.uk/\\_data/assets/pdf\\_file/0008/39329/pr18-managing-change-policy.pdf](https://orr.gov.uk/_data/assets/pdf_file/0008/39329/pr18-managing-change-policy.pdf)

and address any potential impact that may arise, as soon as possible. We expect Network Rail to keep ORR updated on this, should it occur.

**ORR opinion and holding to account**

ORR's opinion is that it is appropriate for us to agree to this Level III Relevant Change to update to the train mileage data, recognising the subsequent changes to the CP6 CRM-P baselines and regulatory floors set out in ORR's PR18 Final Determination and ORR's letter to Network Rail on 19 June.

We will continue to hold Network Rail to account for the delivery of the committed levels of performance in CP6 and from 14 August 2020 this will be based on the revised CP6 CRM-P data (as set out in your letter). However, we recognise that further changes to the CRM-P trajectories (from year 2 onwards) may follow based on the impact of Covid-19.

Lastly, we expect Network Rail to continue its ongoing engagement with ORR and to keep us updated on any potential future impact and/or changes as early as possible. We also expect any changes to be reflected accordingly in Network Rail's Delivery Plan Update.

Yours sincerely



Graham Richards