

**John Larkinson**  
Chief Executive



Andrew Haines  
Chief Executive  
Network Rail Infrastructure Limited  
By email only

3 December 2020

Dear Andrew

## **System Operator – 2020-21 mid-year review**

This year we are continuing our approach of publishing an annual assessment of Network Rail's performance in the summer, supplemented halfway through the year with letters focusing on particular areas. This year our mid-year letters cover three matters:

- Network Rail's response to the coronavirus pandemic and its impact on the company's plans;
- train performance; and
- the performance of the System Operator.

Our focus on the System Operator reflects its critical role in supporting Network Rail and the wider industry's delivery to passengers and freight. The System Operator's importance, particularly in respect of developing the timetable, has been underlined this year. We believe the System Operator has delivered impressively in responding to the initial crisis of the pandemic by managing four major timetable changes in six months in response to an extremely challenging environment of changing passenger demand, operational risk and evolving operator requirements.

However, we have concerns about the developing plans for timetable planning during 2021, particularly in respect of the long term non-compliance with Network Code timescales. We have challenged Network Rail to provide us with greater assurance that it has fully considered the risks created by condensing the approach to preparing new timetables in 2021 and how it is managing these.

As well as producing the timetable, the System Operator is responsible for strategic planning, managing changes to what the network delivers, and managing the access rights framework. We require Network Rail to make improvements in the evidence provided for access applications, the information published on capacity and in supporting the industry to return to compliance with agreed timescales for the sale of access rights.

This letter discusses the System Operator's delivery in sequence: capacity, the sale of access rights, developing the timetable, the delivery of capital projects to support these activities and, finally, governance.

### **Information about capacity**

The System Operator is responsible for the framework that determines which operators are able to use the network (the sale of access rights) and when (the timetable). In order to facilitate this, the System Operator determines what capacity is available, publishes this information and ultimately determines how to make best use of available capacity. The network licence requires Network Rail to conduct capacity allocation promptly, accurately, transparently and impartially. This means providing adequate information about available capacity and capacity constraints, so that operators and ORR can make informed decisions about potential new services. We have already escalated a number of cases where Network Rail has fallen short in its provision of information on capacity, both from some of the regional teams as well as from the System Operator.

Accurate and timely information on available capacity is necessary for funders, industry and ORR to understand Network Rail's decisions about whether to sell access rights in response to individual applications. This year a number of Network Rail's representations to us (relating to access applications made under sections 17 and 22A of the Railways Act 1993) have not been prompt enough nor contained sufficient evidence when first submitted to demonstrate whether Network Rail has met all its obligations. In order to reassure industry and funders, my teams have had to go to greater lengths than ought to be necessary in order to judge whether a robust decision-making process has been followed.

Network Rail is also required to routinely publish information about network capacity, which supports operators and funders in developing their plans. This includes network wide documents such as the Network Statement and the Framework Capacity Statement, and specific information on areas that have been declared as being 'congested'. These declarations provide industry with important transparency about specific parts of the network where capacity is very constrained (for example, the Castlefield Corridor in Manchester and the fast lines between Camden South and Ledburn junctions on the West Coast Main Line). Equally importantly, making such a declaration also requires Network Rail to develop plans to resolve those constraints.

In September 2020, we provided our opinion on your recently published *2022 Network Statement*<sup>1</sup>. This highlighted the need to improve information on capacity, and specifically on declarations of congested infrastructure, on the Network Rail website. Our engagement with you on this document has been productive, especially your commitment to publish a register of declarations of congested infrastructure

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<sup>1</sup> The 2022 Network Statement is available here: <https://www.networkrail.co.uk/industry-and-commercial/information-for-operators/network-statement/>

including their status and plans for resolution. Your teams have undertaken a review of the *Network Rail Code of Practice for Declarations of Congested Infrastructure* and agreed to engage with industry on the latest version. Following on from this, we expect them to conduct a similar exercise with industry as part of the next publication of the *Framework Capacity Statement*. We acknowledge that both documents have previously been the subject of consultation with industry.

We recognise that the assessment of capacity can be complex and at times contentious, particularly against a backdrop of ongoing industry change. We appreciate the challenges the industry currently faces and the fact Network Rail colleagues have taken time to explain elements of their work when requested. We nonetheless require Network Rail to improve aspects of its processes for producing and making available information about capacity and we are working closely with your teams to secure those improvements.

### **Sale of Access Rights**

The System Operator is responsible for the Sale of Access Rights (SOAR) framework and for leading the SOAR panel where decisions about operators' access to the network are taken. The effectiveness of this process relies on timely inputs from both operators (when applying for access rights) and the System Operator (when assessing those applications). In May 2019, we wrote to Network Rail and operators to stress the importance of starting this process early with the intention of having approved rights 40 weeks prior to the timetable change. We have not seen any improvement, even before the pandemic impacted on timetabling activity, and remain concerned that the industry is still not meeting the expected timescales for the approval of access rights, set out in ORR's *Making a track access application*<sup>2</sup> guidance which corresponds with the process set out in the Network Code. We have initiated further work with the System Operator to establish with you why this problem persists.

Allowing sufficient time for access applications ensures that fair access is granted to the rail network and best use is made of capacity. The System Operator should provide leadership and support to operators in this as it ultimately supports the development of timetables which best serve passengers and freight users. While we are pleased with the steps the System Operator's Regulatory Reform Team and the Industry Timetable Assurance Programme Management Office (PMO) have made to improve information on likely forthcoming applications for track access rights, we remain concerned that late applications minimise the time available and therefore add risk to delivering a high performing timetable.

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<sup>2</sup> <https://www.orr.gov.uk/sites/default/files/om/making-a-track-access-application.pdf>

We recognise that Network Rail's Regions and train operators, as well as the System Operator, have a role in achieving compliance with Network Code timescales. As such, we welcome that the PMO is leading a new 'D82' workstream which is focused on improving early engagement on access rights and timetable planning in order to recover the process to comply with the agreed timescales. While we support this work, its outputs will mainly be deliverable in the longer term. We continue to require the System Operator to take more immediate actions to understand and resolve issues arising closer to the timetable change date, and we will work with you to do this.

## Timetabling

The System Operator produces the timetable, a function that is key to ensuring that timetable information that flows to passenger journey planners is accurate and timely. The base timetable normally changes twice a year in May and December. This year was an exception and the System Operator responded very well in delivering the contingency timetable in March and the subsequent timetable uplifts in May, June and September 2020. As we noted in our annual assessment of 2019-20<sup>3</sup>, timetable planners across the industry worked extremely hard to develop new timetables very quickly under difficult circumstances. We recognise that it was extremely challenging for timetable planners to work remotely, and that Network Rail prioritised critical workstreams early in the pandemic, and then later amended working practices and made changes to office locations to enable timetable planners to return safely to Covid-secure offices.

The System Operator and PMO also worked collaboratively with industry to analyse train performance and to identify potential performance improvements as part of 'build back better'. The industry decided to use the September and December timetable changes to deliver some of these timetable-related performance improvements. This required some train operators to submit new proposals for the September uplift and December timetable change outside normal timetable planning timescales. As we noted in our letter to you in August<sup>4</sup>, this impacted the delivery of Informed Traveller Timescales, 'T12'. A recovery plan was agreed with the industry

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<sup>3</sup> ORR's Annual assessment of Network Rail 2019-20 (System Operator) is available here: <https://www.orr.gov.uk/sites/default/files/2020-09/annual-assessment-of-network-rail-2019-20-system-operator.pdf>

<sup>4</sup> ORR's letter of 13 August on timetable development and non-compliance with informed traveller timescales is available here: <https://www.orr.gov.uk/sites/default/files/2020-10/timetable-development-and-informed-traveller-timescales-non-compliance-letter-to-network-rail-2020-08-13.pdf> and Network Rail's response of 7 September is available here: <https://www.orr.gov.uk/sites/default/files/2020-10/timetable-development-and-informed-traveller-timescales-non-compliance-letter-to-network-rail-2020-09-07.pdf>

to return to T12 while managing timetable planner workloads and the wider resource demand on operators. We supported the plan.

When the recovery plan was developed over the summer, we were aware that Network Rail had developed plans to manage local resourcing constraints within both Network Rail and train operators. We were pleased to see this proactive approach to risk management. We considered that the plan was robust and deliverable, provided the industry did not have to make further significant changes to the timetable.

The announcement on 1 November of additional coronavirus restrictions in England, and similar actions by the Scottish and Welsh governments, changed the situation. We wrote to the System Operator on 11 November<sup>5</sup> about Network Rail's proposed approach to timetabling during 2021, which at the time was to deliver quarterly timetable changes. This proposal would have resulted in the Informed Traveller Timetable being published four weeks in advance of the timetable. The System Operator wrote to us on 20 November outlining a further iteration of plans for 2021<sup>6</sup>. Under these new proposals, operators will be able to make changes to the December 2020 base timetable in March, there will be a timetable change in May 2021 and operators will have further opportunities to make only minor changes to the May 2021 base timetable in September and December 2021. This proposal should enable the Informed Traveller Timetable to be published six weeks in advance but there is not currently a recovery plan to achieve T12.

We recognise that the industry is responding to very uncertain times and that Network Rail continues to review its approach as circumstances change. We want to ensure that the amended approach to timetabling results in effective management of systemic risk, and enables Network Rail to deliver as far as reasonably practical on its obligations to both passengers and freight operators.

Once the timetabling process becomes more settled, we are aware that there may be a continuing desire to use the quieter network to deliver additional works, potentially outside normal planning timescales. This may create additional risks that require active management by the System Operator. Network Rail has obligations

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<sup>5</sup> ORR's letter of 11 November on Informed Traveller publication timescales is available here: <https://www.orr.gov.uk/sites/default/files/2020-11/informed-traveller-publication-timescales-2020-11-11.pdf>

<sup>6</sup> Network Rail's letter of 22 November on Informed Traveller publication timescales is available here: <https://www.orr.gov.uk/sites/default/files/2020-11/informed-traveller-publication-timescales-letter-from-network-rail-2020-11-20.pdf.pdf>

under its network licence<sup>7</sup> and the Network Code<sup>8</sup>, and we will require you to strike an appropriate balance between the benefits of any additional works and the needs of passengers and freight operators to have assurance about the timetable. For instance, where timetables are published late, for example at T-6, we would like Network Rail to explain how the negative impacts for passenger information of further revisions caused by short notice changes will be avoided.

The importance of alignment between the timetable development process and other industry processes was highlighted in the inquiry into the failure of the May 2018 timetable, led by Stephen Glaister<sup>9</sup>. We have previously noted Network Rail's progress in the delivery of the recommendations from this report and ORR's final order<sup>10</sup>. It will be important that these more robust assurance processes are preserved. We have not yet seen sufficient detail on how the System Operator intends to manage the systemic risks arising from condensed planning horizons and ensure continued alignment between the new lead-in process for timetable changes and other dependent industry decision-making processes, programme assurance and industry readiness activities.

Given that there is not currently an agreed plan to return to agreed Network Code timescales, we require further details of Network Rail's plans to facilitate a return to compliance with Network Code timescales while managing the risks highlighted above created by non-compliance, and/or of your plans to assess and agree appropriate changes to the Network Code in the longer term. We are committed to continuing to work closely with you to resolve these important issues.

### **Industry Timetable Assurance Programme Management Office (PMO)**

The PMO continues to perform well in its timetable change assurance function. Its maturing and proactive role was particularly evident during the development of the contingency timetables. We were aware of examples where the PMO successfully challenged operators and funders, such as in preparations for the September step-up where the PMO's intervention led to some scaling back of plans which could have imported risk into the delivery of the timetable change.

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<sup>7</sup> Licence condition 5.5 (Asset management policies and criteria), Network Rail's network licence is available here: <https://www.orr.gov.uk/media/10877/download>

<sup>8</sup> The Network Code is available here: <https://www.networkrail.co.uk/industry-and-commercial/information-for-operators/network-code/>

<sup>9</sup> ORR's independent inquiry into the timetable disruption in May 2018 is available here: <https://www.orr.gov.uk/sites/default/files/om/inquiry-into-may-2018-timetable-disruption-december-2018-report-grayscale.pdf>

<sup>10</sup> ORR's final order of 30 January 2019 is available here: <https://www.orr.gov.uk/sites/default/files/om/network-rail-timetable-final-order-2019-01-30.pdf>

## **Delivery of the System Operator's capex programme**

The System Operator was provided with £60 million in additional funds in CP6 to deliver an important capital programme to improve the timetable development process. This programme should deliver more accurate timetable planning and enhanced modelling of network capability. An additional £40 million was later allocated to the System Operator for the development of an industry timetabling technology strategy as part of the response to the inquiry into network disruption in May 2018. The first year of CP6 was necessarily focused on developing the scope of these projects and defining the outputs. Now this has been crystallised through the MSP4NR<sup>11</sup> governance process, we will look for assurance that the planned scope and outcomes for industry, and ultimately for passengers and freight customers, will be delivered during CP6.

We have been pleased to see the delivery of some quick wins as part of the work on the wider programmes. An example is the use of new tools to assess the availability of capacity within the working timetable, upgrades to timetable planning software and early roll out of some bespoke tools that reduce manual intervention in conflict detection. We have also been impressed by concerted engagement with the industry in order to develop a strong vision for change through the Timetable Technology Strategy project. It is vital that the System Operator continues to clearly and regularly articulate the benefits this work is already delivering to its customers.

## **Governance**

The System Operator has recently delivered a Transformation Programme including a refreshed purpose and operating model, alongside the delivery of the most recent stage of the Putting Passengers First programme<sup>12</sup>.

As the industry's structure and governance evolves, clear and robust governance around the System Operator's core responsibilities and other decisions remains vital. As we noted in our October 2020 letter, we consider the Network Integration Boards to be an important element in delivering governance and oversight.

We have been pleased to see the important and active role played by the System Operator Advisory Board in supporting and challenging the System Operator, for example in supporting a more structured and qualitative approach to stakeholder engagement and in providing constructive challenge on the System Operator's transformation programme. The System Operator has also demonstrated its

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<sup>11</sup> MSP4NR – Managing Successful Projects for Network Rail.

<sup>12</sup> ORR's letter of 12 Oct 2020 about our application of the Managing Change policy to the transformation programme is available here: <https://www.orr.gov.uk/sites/default/files/2020-10/system-operator-transformation-programme-2020-10-12.pdf>

commitment to responsiveness to customer needs through its use of its Customer Advocacy Survey to support its business planning processes.

## **Conclusion**

Reflecting on the first half of 2020-21, we have concluded:

- The System Operator performed well in its delivery of the contingency timetable in response to the pandemic and subsequent timetable uplifts. We particularly recognise the exceptional efforts of the timetabling teams in delivering this at pace in difficult circumstances. Network Rail and the train operating companies must continue to manage risks associated with fatigue and wellbeing of timetable planners. These colleagues have been working very intensively to deliver the contingency timetables and it is important to manage the impact fatigue may have on timetable quality.
- The industry is still not complying with the timescales for the sale of access rights and it is the responsibility of the System Operator to lead and support Network Rail and operators to make improvements to ensure that best use is made of capacity and timetable risks can be most effectively managed. We will continue to support industry discussions and provide feedback on plans to improve compliance with the sale of rights timescales.
- Network Rail must improve the evidence it provides when making representations on access applications, which is necessary to support effective, well informed decision-making on the best use of capacity. We have already escalated our specific concerns about the quality of representations on access applications and the articulation of capacity to Eastern, North West & Central and Wales & Western regions as well as the System Operator. We will continue to escalate our oversight if we do not see an improvement.
- Network Rail must also continue to improve the information it provides about capacity, particularly in respect of congested infrastructure so that funders and operators have the information they need to plan future services. We have discussed the specific documents that Network Rail needs to produce on congested infrastructure with both the System Operator and North West & Central region and will be monitoring the outputs closely.
- The industry is still responding to a high level of operational uncertainty from Covid-19 and this has impacted on timetable development for 2021. The System Operator must tell us in detail how it plans to work with train operators to maintain passenger confidence in the published timetable. It must also explain how it will deliver its obligations to freight operators, on passenger



information, and to effectively manage risk. We require further details of Network Rail's plans to facilitate a return to compliance with Network Code timescales for timetable development while managing the risks we have highlighted, and/or of its plans to assess and agree appropriate changes to the Network Code in the longer term.

- The System Operator has defined the scope of its capital programme and is now starting to deliver some outputs, including some improvements to its software and processes which have increased efficiency. This is good progress but we will continue to monitor to assure ourselves that the required outcomes from this investment will be delivered in CP6.
- The System Operator Advisory Board and broader governance is functioning well, and the System Operator has responded to challenges from its Advisory Board and to customer feedback.

We welcome the System Operator's constructive, open and proactive approach to working with us in our holding to account for its significant and challenging responsibilities. We will continue to engage with the System Operator to ensure the findings of this mid-year assessment are addressed.

A copy of this letter will be published on our website.

Yours sincerely

A handwritten signature in black ink, appearing to be 'John Larkinson', written in a cursive style.

**John Larkinson**