

**Responses to 2021 consultation on ORR's launch letter
for the Periodic Review 2023 (PR23)**



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Department
for Transport

From: Dan Moore
Director, Rail Strategy and Analysis

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Dear Daniel,

Response to ORR's Open letter to launch PR23

I am writing in response to the ORR's letter launching the Periodic Review 2023 (PR23) process. We welcome the formal start of the Periodic Review process, which is critically important for ensuring that the railway delivers for its customers and taxpayers – and for ensuring that it is held clearly accountable for doing so. We also welcome ORR's clear acknowledgement in the letter that this is a time of challenge and change for the railway, alongside the clear recognition of the forthcoming significant changes through the Williams-Shapps Plan for Rail (the Plan for Rail) to enable the railway to deliver more effectively into the future. As set out in the Plan for Rail, the conclusions of PR23 will be an important opportunity to support and enable reform.

In this context, we particularly support the ORR's acknowledgement that the PR23 framework needs to remain flexible and adaptable to reflect change and are encouraged that the ORR is building this into the process at the outset. Given the ongoing development and implementation of the Plan for Rail, this is vital. Equally vital is the need for the ORR's Final Determination to remain flexible enough to allow evolution during the course of CP7 whilst maintaining accountability, particularly to reflect the creation of Great British Railways (GBR). Alongside that, however, maintaining the valuable certainty for industry and the supply chain that comes from the five-year settlements will be central to supporting efficient and effective delivery. It will be important that we work closely together throughout PR23 to achieve this, building on the strong collaborative working we have established in the early stages of PR23 so far.

We have reflected carefully on the proposed approach of the ORR to PR23. We support the overall approach and have highlighted some of our priorities and views below to inform the ORR's future approach. It is important to note that a significant amount of our focus in the forthcoming PR23 consultations will be on improving mechanisms for third party operators, given that this issue will have particular relevance beyond the introduction of GBR. Our comments in this letter and in our consultation responses are therefore intended to reflect a DfT view that, while the

reforms included in the Plan for Rail will result in important changes across the railway, third party operators will continue to have an important need for certainty and protections to support their future success.

We very much agree that the sustainable operation, maintenance, and renewal (OMR) of the rail network is at the centre of the Periodic Review, as it is central to ensuring the safe and reliable railway that customers deserve. We agree that the ongoing four key objectives set out by the ORR are of enduring importance and that meeting these will help deliver a better performing railway into the future:

- **Safety:** Maintaining the safety of the network, including through building network and infrastructure resilience. In the face of climate change and the extreme weather events, the need to build resilience in rail is a vital part of maintaining the railway in line with the Mair and Slingo recommendations; we also very much agree on the importance of a joined-up approach to economic and safety regulation;
- **Performance:** Ensure a strong focus on improving outcomes for users including reliability for passenger and freight customers;
- **Efficiency:** Ensure OMR of the railway will be sustainable, with a strong focus on improving efficiency and supporting innovation. This is vital to ensure efficiency for taxpayers and we would welcome early sight of the ORR's approach to ensuring a robust and effective efficiency challenge during the process, so that efficiencies are stretching but realistic. This should build on the approach that has led to the successful delivery of efficiencies in the first two years of CP6 – including strong region-based benchmarking; and
- **Asset sustainability:** Including laying the foundations for enabling infrastructure to be delivered more quickly and sustainably, and in line with the Government's aims for improving the accessibility of the rail network as set out in the Inclusive Transport Strategy.

To achieve these objectives, we therefore agree with the key issues of the PR23 framework to which you refer, particularly regional regulation, a specific System Operator settlement and a specific focus on delivery to freight users.

Moreover, we must ensure that we seize the opportunity to consider all facets of rail delivery as well as its impacts on the broader government agenda, and to that end we would also like to see prioritised the following issues:

- **Alignment with and full support of the implementation of the Williams-Shapps reforms** as discussed above, including through taking a whole-industry approach to support a more integrated railway.
- **Achieving broader Government objectives.** This includes supporting the achievement of our environmental objectives for example through facilitating modal shift from road to rail freight; and growing the economy and levelling up, including through facilitating a successful and competitive supply chain.

- We are also keen to work with the ORR to explore how we can ensure efficient and effective delivery of key network-wide priorities such as signalling renewals.

Delivering these objectives will be challenging. In some cases, we will need to look for productivity gains to deliver more with the same resources. In other cases, such as decarbonisation, we will need to look for new solutions. It is therefore vital that there is continued emphasis on research, development, and innovation across the sector so that UK rail can lead the way in innovation and delivery.

More generally, we strongly agree with the ORR's approach to ensuring that the review is a proportionate one, given the importance of the railway being focussed on delivering for customers in a time of change, as well as supporting substantial reform. This is particularly important in the case of charges and incentives where we favour a targeted approach, consistent with the implementation of the Plan for Rail, while also working effectively for third party operators such as the rail freight industry, charter and open access operators. Our accompanying response to the Schedule 8 technical consultation and to the Charges consultation provides our initial views on this issue.

I look forward to further discussions on your approach to PR23, including as part of your forthcoming consultations.

Yours sincerely,

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Dan Moore

Comments on Periodic Review 23 from the Disabled Persons Transport Advisory Committee

Introduction

The Disabled Persons Transport Advisory Committee ('DPTAC') is the statutory advisor to the Secretary of State for Transport on matters relating to disability and transport. In our wider 'established role' we provide advice to government more widely, the Department for Transport, and associated governmental agencies such as the Office of Rail and Road ('ORR').

We are responding to the ORR's 'open letter' of 17th June, 2021, which set out its approach to the completion of Periodic Review 23 ('PR23') as a precursor to Control Period 7 ('CP7'). The ORR invited views from stakeholders on its proposed approach; in particular any areas that stakeholders felt the ORR should specifically consider within its PR23 framework. This letter sets out DPTAC's comments on the ORR's proposed approach and framework.

DPTAC's comments

(1) As background, it is worth stating that the rail network remains inaccessible for many disabled people, as evidenced by the lower propensity to make rail journeys amongst disabled people compared to non-disabled people.

Research has identified many barriers to rail travel that exist for disabled people but of particular relevance to PR23 is the continued existence of widespread physical barriers at stations.

(2) In the light of (1) above, we were very surprised that the ORR's open letter did not contain a single specific reference to accessibility, despite the ORR's important regulatory role in this area, the importance placed on improving accessibility in the Williams-Shapps Plan for Rail ('the Plan') published as a white Paper in May 2021 (Commitment 44 in particular), and given the crucial importance of providing targeted funding to address the inaccessibility of much of the station estate.

Commitment 44 in the Plan set out important new initiatives to improve the accessibility of the rail network including the introduction of a new Accessibility Duty upon the proposed new body Great British Railways ('GBR') and train operators, the development and publication of a new Rail Accessibility Strategy, and the establishment of a single, consolidated fund for physical improvements to the accessibility of the station estate.

The Plan also set out the proposed new regulatory role for the ORR, which will be focussed on ensuring that GBR delivers on its commitments to government, meets the needs of passengers, provides value to taxpayers, and meets its regulatory and legal obligations.

In this context, we note that CP7 will cover the period 2024-2029 by which time GBR should have been created and the other accessibility-related initiatives in the Plan either implemented or in the course of being implemented.

(3) Given (2) above, we would strongly advocate that the accessibility of the rail network should be explicitly considered with the PR23 framework, and within the context of the rail sector's existing legal and regulatory duties, as well as the important new strategic context provided by the Plan.

(4) Such explicit consideration should take into account the funding and other requirements needed for Network Rail and GBR to meet their regulatory and legal requirements with regard to accessibility, as well as the delivery of wider improvements to the accessibility of the rail network in line with government policy, and the broader context of the 2010 Equality Act.

Specifically, the need for widespread physical improvements to the station estate should be considered with a view to ensuring that a much larger number of stations become compliant with the Design Standards for Accessible Railway Stations: Code of Practice. This is particularly important in the context of the focus on OMR funding in CP7 as station maintenance and renewals need to comply with the Code of Practice.

The significant accessibility issues associated with the platform-train interface also need to be considered, as does the provision of adequate staffing at stations, without which the ability of the operational railway to support travel by disabled people and provide assistance is severely compromised, and many improvements to physical accessibility rendered of reduced or limited benefit.

(5) As PR23 will be completed roughly in parallel with the development of the proposed Rail Accessibility Strategy ('the Strategy'), we would advocate the closest possible engagement between the ORR and the various bodies developing the Strategy, most importantly the Department for Transport and Network Rail (the latter in its own right but also as the industry's 'Interim Guiding Mind' ('IGM') leading-up to the formation of GBR, as set out in the Plan).

For the proposed new Strategy to be successful it is crucial that it is fully integrated with the outputs and deliverables expected from Network Rail/GBR within CP7, and the associated funding for CP7.

(6) In this context, we should also highlight the importance of the accessibility audit included within the Plan, which will for the first time provide comprehensive information on the accessibility of the station estate, and form the basis for calculating the quantum of investment required to make the station estate accessible and the prioritised plan for achieving such accessibility.

PR23 should take full consideration of the information emanating from the accessibility audit, although we have a strong concern that because the timescales for the audit and PR23 are not aligned, there is a risk that decisions on funding for PR23 may be taken prior to completion of the audit. A similar risk applies to the planned review and re-issue of Design Standards for Accessible Railway Stations: Code of Practice, which will again take place in parallel with CP23.

(7) We believe that PR23 also needs to consider ORR's regulatory role in improving the accessibility of the rail network. ORR already has an important role in this area as a result of the Passenger Licence requirement upon train operators to develop and implement an Accessible Travel Policy, as well as the ORR's enforcement duties with regard to RVAR, the PRM NTSN, and the Design Standards for Accessible Railway Stations: Code of Practice.

In response to the recent consultation on the Post-Implementation Review of the Rail Interoperability Regulations, DPTAC strongly advocated that the various regulatory codes and duties related to the accessibility of the rail network should be consolidated into a single regulatory code and that post the formation of GBR, the ORR should become the single enforcement for ensuring

compliance with the new code in its entirety. We believe that such consolidation would provide greater clarity and transparency to accessibility-related regulation, allowing more effective monitoring and enforcement, and making it easier for disabled people and their representative organisations to hold GBR and train companies to account.

Conclusions

PR23 has a key role in driving forward improvements to the accessibility of the rail network, and DPTAC would be very willing to engage further with the ORR as PR23 progresses. We will certainly respond to formal consultations, but would be happy to engage informally as well.

We are happy for this response to be made public without redaction.

David Mapp (on behalf DPTAC)

08/9/2021



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10 September 2021

Dear Dan,

Response to ORR's Open letter to launch PR23

I am writing in response to your open letter to launch the 2023 periodic review (PR23). Network Rail welcomes the formal start of the periodic review process. The periodic review is critical for Network Rail, determining our funding and outputs for Control Period 7 (CP7), as well as the framework for holding Network Rail to account, and charges and incentives.

Our response sets out our views on ORR's overall approach to PR23, and comments on some of the issues and themes that you have highlighted.

We agree that the challenges our industry faces as a result of COVID-19, and the impact of the Williams-Shapps Plan for Rail, provide a complex background for this review. It is positive that you recognise the need to accommodate the reforms and not lock-in uncertain forecasts of passenger demand, while retaining the benefits of a five year settlement.

We agree that safety, performance, asset sustainability and efficiency are key objectives for the periodic review. We also welcome the increased focus on the outcomes that passengers and freight care about, consistent with our vision of putting passengers first. The objectives for the periodic review should support delivering a good experience for passengers and freight customers during the course of CP7 and ensure that the railway plays its part in making strides towards the government's target of net zero emissions.

We agree that you will need to facilitate a range of government aspirations as well as meeting these four key objectives. We also strongly welcome a more joined up approach to economic and safety regulation, particularly given the trade-offs that are likely to be required to prioritise different objectives within the funding available.

We welcome the recognition that PR23 provides opportunities to bring greater alignment between Network Rail and train operators. These opportunities will support the delivery of the best possible service to passengers and freight users, aiding the effective operation of the whole railway. This is consistent with the objectives of the Williams-Shapps Plan.

A key focus for ORR will clearly be the efficiency savings that Network Rail plans to deliver in CP7. The launch letter recognises that the overall determination needs to be balanced, fair, stretching and deliverable. It will be important that ORR's approach builds on its successful approach to the last periodic review, which resulted in the challenging efficiency assumptions that Network Rail has delivered during the first two years of CP6. Continued emphasis on research, development, and innovation will be an important driver of efficiency in CP7.

It is helpful that the launch letter has confirmed the overall PR23 timetable, while recognising that this may need to be adapted as the Williams-Shapps Plan is implemented. Further work between our teams will be needed on the practicalities of the current short time period between publication of the HLOS and SOFA and our Strategic Business Plan, particularly on the potential need to flex the timetable towards the end of the review.

On the overall scope of PR23, ORR is currently assuming that enhancements will not be included in the CP7 settlement. We consider that there may be an opportunity to include some smaller enhancements within the CP7 settlement, such as ring-fenced funds for small projects (e.g. access for all fund), and small enhancements to planned renewals projects to deliver passenger benefits. This could allow more efficient delivery and support the Williams-Shapps reforms through collaboration on ensuring best value, whole system delivery.

We agree that the PR23 framework needs to remain agile and for flexibility to be built into your considerations from the start. It is particularly important that the determination remains flexible enough to evolve during CP7, enabling delivery of the benefits set out in the Williams-Shapps Plan, while not undermining the benefits of a five-year settlement.

While there will clearly be a significant focus on the overall funding and outputs, PR23 provides an important opportunity to make improvements to the framework for charges and incentives. We think it is important that PR23 takes the opportunity to improve the charges and incentives framework, consistent with the Williams-Shapps Plan. We think this is particularly the case for Schedule 8 and Delay Attribution, and we are responding separately to your Schedule 8 consultation. We recognise that there will be a significant challenge for ORR to balance the defined timescales of the periodic review process with the emerging programme for implementing the Williams-Shapps Plan. We will support ORR in finding the right balance, which is likely to need some flexibility in our joint approach to reform of the charges and incentives framework.

We support ORR's approach to ensure that the process is proportionate and targeted. It will obviously remain important that the industry has sufficient opportunities to express its views on ORR's proposals throughout the review.

We look forward to further discussions on your approach to PR23, including your further consultation on the overall framework for CP7 in spring 2022.

Yours sincerely,

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Paul McMahon
Director, Planning & Regulation

Daniel Brown
Director, Economics, Markets and Strategy
Office of Rail and Road (ORR)

(by email only)

10th September 2021,

Northern Trains Limited
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Dear Daniel,

Northern Trains Limited (NTL) response to PR23 launch Letter

NTL would like to express its thanks to ORR for sharing its open letter to launch the PR23 process and inviting comments. This letter is intended to share NTL's views.

The PR23 process has an important role in futureproofing our railway against a complex industry background and where significant change to the 'status quo' can be anticipated. It is NTL's view that caution must be applied during the PR23 process due the lack of clarity of the impact of the Williams-Shapps Plan for Rail. The plans are currently under development and therefore at this point we can only but speculate what changes might be ahead as no clear decisions have yet been made. We would therefore suggest that as an industry we need to maintain an open mind when assessing PR23 proposals. We must allow for flexibility within the process to ensure that we do not 'lock in' unrealistic targets, underfund OMR (operations, maintenance and renewal) activities which will produce the greatest passenger benefit or suppress potential growth in railway use which is more important than ever given the impact of the Covid-19 pandemic on patronage.

NTL strongly believes that the upcoming reform and the PR23 process itself brings about opportunities. In particular, the opportunity for 'track and train' to work more closely together, the opportunity to adopt a whole system approach to the work that we do and the opportunity to move away from some of the traditional barriers that we face as an industry that prevents us from delivering the best possible service for our passengers. The PR23 process has an important role to play as the level of funding for Network Rail needs to be right as does the expected targets and outputs – targets must be challenging, underpinning a continuous improvement ethos and not just BAU.

There needs to be clear standards set as to how Network Rail engages with Train Operating colleagues particularly around renewal activities. NTL has data and insight that is essential to inform asset investment decision making and that will ensure that we can achieve customer and performance

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outcome improvements. Further, as an industry we must do more to understand where simple enhancements off the back of renewals could be undertaken. For a small cost, there is potentially a massive benefit, however due to the way Network Rail are funded, the lack of ongoing visibility of renewals plans and commonly a lack of joined up approach when it comes to Network improvements often the opportunity is lost. This also brings with it the opportunity to better utilise third party funding to enhance the Network, improving performance and ultimately our rail users experience. Again, by having greater visibility of renewal activities, third party funding could for a relatively small cost enhance the network – this of course requires greater alignment and we welcome the reference in your letter that PR23 will look to address this. Small things like these would help us become more efficient ensuring that we are embracing opportunities to deliver more for less.

NTL set out it's short, medium- and long-term plan in March 2021, in "our business plan". This set out the principle of delivering an urgent programme of "getting the basics right" whilst in parallel planning the medium to long term strategic transformation of the business towards 2030 in pursuit of the overall vision – **to make a positive impact for the North, in all we do and for all we serve.**

NTL's business plan is built on four strategic ambitions which are the core building blocks through which we will deliver our long-term vision. These are as follows:

1. **Customers at the Heart** - Our business is about serving customers who want to be connected. It's about understanding and fulfilling their needs as individuals and valuing the places our stations provide to the communities they serve.
2. **Valued People** - Our success is critically dependent on our world class team of colleagues and partners. Our business will be forward-thinking, collaborative and will embrace the values of the diverse and inclusive communities that are home to our colleagues.
3. **Operational Excellence** - Service delivery consistently and safely producing the best possible quality performance. Our operations will place people and technology in harmony. The railway will be optimised as a system and it will be intelligently enabled through the deployment of appropriate digital technologies and the skills of our colleagues.
4. **Sustainable Growth** - Delivering value for both customers and the wider communities we serve. Our operations will be environmentally optimised, contribute to wider government policies of investment in the North and be overall value generative.

At centre of our medium to long term planning approach is a customer-driven business model underpinned by a suite of eight individual strategies, structured around NTL's:

- **Service Offer:** 'what' NTL will offer its customers and funders as defined by a Customer Strategy, Value Strategy and Sustainable Development Strategy;
- **Service Blueprint:** 'how' the service offer will be delivered as defined by an Operational Excellence Strategy and People Strategy; and
- **Enabling strategies:** Primary enablers to the delivery of NTL's long-term vision through a Business Strategy, Partner strategy and Safety Strategy.

A critical part of NTL's strategic business model and transformation towards 2030 and well beyond will be the Rolling Stock Strategy. This is a key interdependent component of how NTL delivers right across the customer driven business model.

NTL's Rolling Stock Strategy is of vital importance to our customers, funders and stakeholders and upon which our business plan is founded.

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- **Customers** demand a service which meets their needs now and in the future. This means a modern, safe, reliable train which is designed for their requirements in mind with, as standard, air conditioning, fully accessible to all, the right mix of seating and storage space for the routes operated, and digital connectivity with ease of access to help and information when on the move.
- **Funders** demand a cost-efficient business which makes the best use of the financial support it receives and delivers value economy and society it serves. This means trains which are more affordable, more cost-efficient to maintain and operate, and which deliver high levels of performance.
- **Stakeholders** demand a service which meets the needs of the 21st Century. This means trains which directly respond to the climate emergency using clean energy, improving air quality and which make an important contribution towards sustainable economic growth across the North.

We believe our strategic ambitions to be highly relevant to the PR23 process and appear to complement the objectives of the PR23 process as set out in your letter.

NTL and Network Rail have recently entered into a new 'Partnership' which has brought increased focus to the importance of working relationships and adoption of a whole system approach in order to deliver the best possible service for our passengers. Within our Partnership we have specific groups looking at safety, performance and assets amongst various others. Seeking efficiencies in how we work together is an important part of our Partnership principles particularly against the backdrop of the The Williams-Shapps Plan for rail, which makes it clear that as an industry we must become more efficient in order to provide the most cost effective railway for our passengers and tax-payers. We fully intend to not only work collaboratively with Network Rail to deliver the required outputs within CP7 but we will also support and challenge Network Rail through our Partnership work to ensure that together we deliver the best value railway for our passengers. We will be particularly interested to understand through the PR23 process how the ORR intends to hold Network Rail to account throughout CP7 for its delivery.

We note that the PR23 process will look to continue providing Network Rail with separate regional settlements. Whilst we understand the reasoning behind this, it is important that where an operator such as NTL operate across multiple routes that there is a 'joined up' approach when it comes to the passenger and that there is alignment across the routes. From an operator perspective, there are distinct differences in how individual regions/routes operate which adds a layer of complexity to working relationships and can create confusion when it comes to decision making/accountability and standards. We would therefore encourage the ORR as part of the PR23 process to consider how OMR standards are agreed and funded, ensuring that the approach is consistent across Network Rail as a whole to ensure that passengers receive a consistent offering regardless of which region they are travelling in. This is also important in relation to the governments levelling up agenda, we need the service offering to be comparable across all areas of the UK.

It is also crucial that the System Operator function works closely with each individual region/route as well as Train Operators to ensure that there is alignment in objectives, plans and strategies for the future of the Rail Network. From an Operator perspective, the set up between System Operator and the

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individual routes and regions often appears to lack synergy and as such the approach does not always feel entirely joined up. The impact of this means that it can be difficult to navigate the Network Rail system and it can be difficult to gain involvement in/influence decision making. We would therefore encourage the ORR to observe as part of the PR23 process how the current system could be improved to ensure accountability within Network Rail is clear and that stakeholders and partners have ample opportunity to influence and shape the future of the rail network. This can be achieved by using the expertise of operators and stakeholders, third party funding to finance improvements and really making the most of those opportunities to undertake value led enhancements off the back of renewals.

We are grateful for the opportunity to engage with the ORR and other industry parties in the PR23 process. NTL fully intends to actively participate in all consultations and workshops in order to help determine the PR23 outputs. We would appreciate being kept apprised of all PR23 activities. If you require any further information or have a question about anything contained in this letter, then please do not hesitate to get in touch.

Yours sincerely,



Nicola Eyre
Head of Access and Strategic Partnerships

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10 September 2021

Daniel Brown
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Dear Dan

RFG response to ORR Open letter to launch PR23

Thank you for the opportunity to comment on the ORR's open letter to launch PR23, in which you set out your proposed approach to conducting the next periodic review.

As outlined in your letter, PR23 will take place during a time of significant change and uncertainty for the rail industry. The implementation of the Williams – Shapps Plan for Rail will change both the structure of the industry and the legal and regulatory framework which underpins it, bringing both opportunity and risk for the rail freight sector. The White Paper sets out a framework for freight which aims to support modal shift to rail and improve the efficiency and performance of rail freight in the UK, which is welcome.

However, we also recognise that the private sector rail freight operators, and their customers, will in future operate on a different basis to the majority of the passenger railway, and changes in particular to the access framework are potentially very significant to ensuring investor confidence and the future stability of the sector. It is our opinion that a strong and independent regulatory function, who is able to act with authority over GBR will remain an essential component of UK rail, in particular in for rail freight and other private sector operators who will continue to need access to the GBR infrastructure.

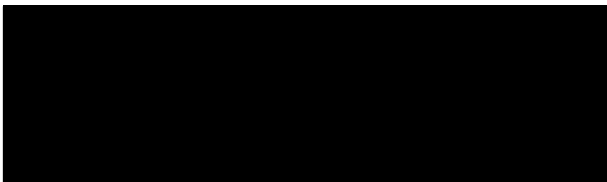
In that context we welcome the proposed approach to conducting PR23, recognising the legal requirement to conduct a review, the proportionate approach to that review and the potential for the review to provide stability for freight operators during this period of change. We have the following comments.

- We are pleased to note that 'UK Government has indicated that GBR will adopt the commitments that Network Rail enters into for CP7', albeit with agreed flexibility. We believe that this commitment should include track access charges and the performance and possession regimes established by this review for CP7, at least for rail freight and other private operators. This would provide certainty and stability during the period of reform, and enable any new systems to be fully developed ahead of implementation for CP8.

- We welcome the assurance that PR23 will reflect all the interests that are affected by the infrastructure's performance, including the rail freight industry. Network Rail, and GBR in turn, however benevolent, will continue to be monopoly providers of infrastructure for freight operators, and appropriate measures must be in place to assure the right behaviours.
- We agree that the framework established for PR18 provides a good basis for PR23 and that any changes must be proportionate and justified, and in line with the direction of travel established in the White Paper. We note that UK Government has committed to promoting modal shift to rail freight, both in the Williams – Shapps Plan and Transport Decarbonisation Plan, and so any changes to the costs of operating rail freight should be considered against this commitment, as the relative costs of road and rail are a significant factor in delivering growth and new services.
- We support the continuation of a specific settlement for the System Operator, particularly given its importance to freight operations. We strongly welcome the specific focus on delivery to freight users that will be included in the review. We note that structural changes at Network Rail mean that, at least presently, the freight team is part of the System Operator function, but as this may evolve over the control period we would support maintaining a separate approach to regulation.
- The approach to rail freight set out by Scottish Government during PR18 has been successful in changing attitudes to freight and supporting new services and growth. Whilst the HLOS for CP7 is a matter for Scottish Ministers, we would support a similar approach in the next control period.

We recognise that the process of a periodic review is complex and the setting of charges and incentives is fundamentally important to the freight sector. We welcome the open approach to date, and are committed to working with you, and our members, to deliver the right outcome in support of modal shift to rail.

Yours sincerely,



Maggie Simpson OBE
Director General

BY EMAIL (pr23@orr.gov.uk)

10 September 2021

Daniel Brown,
Director Economics Markets and Strategy,
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Dear Dan,

Re: Response to ORR's open letter to launch PR23, 17 June 2021

Thank you for the opportunity to comment on the ORR approach to PR23. Thank you also for the recent meeting between ORR Chief Executive, John Larkinson and RIA Members – we look forward to discussing plans further as they develop.

RIA is the national trade association for UK-based suppliers to the railway industry. RIA has over 300 member companies across the supply chain which represent a large proportion of the railway industry by turnover. Members include most of the Tier 1 contractors and large multi-national companies, as well as SMEs, which make up 60% of RIA's membership base. One of RIA's main activities is to represent members' interests to clients, Government, politicians, and regulators. RIA also offers a forum for dialogue and networking, provides information and insight to members, and promotes exports of members' products and services.

ORR's open letter launching the next periodic review process (PR23) sets out four key objectives: safety, performance, asset sustainability, and efficiency. Issues including the transition to Great British Railways, regional levelling-up, net-zero carbon, impact of severe weather, and passenger outcomes are mentioned.

In this response we would like to highlight five key asks:

- **Avoid a hiatus in decision making:** Increased clarity on the strategic alignment of PR23 with the Comprehensive Spending Review and the Whole Industry Strategic Plan would provide more certainty for suppliers. Privatisation led to increased funding confidence – both because of the Control Period 5-year settlements and franchise contracts, which enabled the railway to innovate and grow to support passengers and freight. There is an opportunity now to build on this with the Whole Industry Strategic Plan proposals for 30 year plans. However the move to GBR and development of such plans should not be used as an excuse to move back to annual budgets or to delay timely funding decisions this year.
- **Consultation with suppliers:** It is good that the need for certainty over available funding is highlighted in the open letter. Like you, we welcome the certainty that PR23 will provide and the fact that the Williams Shapps Plan for Rail signalled the intention to retain funding Control Periods (CP). We recommend transparency as plans develop – including consulting on indicative investment volumes in particular to mitigate the risk of a dip in activity at the transition from one CP to the next, as has happened in every previous CP. This would provide more certainty for suppliers and enable them to plan and deliver efficiently. Indeed, we would recommend that you expand the definition of your asset sustainability and efficiency objectives to encompass supplier sustainability and efficiency. The supply chain is ready to be held to account for efficient delivery if there is confidence that clients are considering supplier sustainability in their strategies and decision making.

- **Whole System Innovation:** Innovation drives down costs and increases efficiency. We welcome the approach to innovation funding taken in CP6 and wish to see this positive progress sustained and built on. In rail, innovation has already contributed to building capability including with cross-industry initiatives such as UKRRIN, to accelerating deployment of innovation through agile approaches – notably during Coronavirus, reducing risk to track workers through automation, advances in the collection and use of data, modern methods of construction increasing productivity and reducing disruption and carbon, new approaches to efficient electrification and many more. There is an opportunity to go further to ensure procurement approaches are appropriate for deploying innovation and to incentivise match funding partnerships with suppliers. Anticipating the transition to GBR, funding for innovation should cover more than infrastructure in order to be less fragmented and more efficient. It will be important that GBR also works closely with Innovate UK and other stakeholders with regard to innovation to ensure that rail needs are reflected in national innovation strategies where appropriate - for example with regard to battery, hydrogen, data and construction technologies – all of which draw on the global, cross sectoral and cross transport expertise of British suppliers and thus supporting both efficient UK delivery and export opportunities.
- **Deliver the Rail Sector Deal for the digital railway:** A digital railway improves the passenger experience by increasing reliability and frequency of services and improves safety and asset condition on the railways. More efficient use of the railways also supports zero carbon goals. Rolling out digital signalling is essential since current signalling infrastructure is outdated and at least 60% will become life-expired in the next 15 years. The Rail Sector Deal and the Network Rail Long Term Deployment Plan committed to reducing costs to European Benchmark Levels by 2025 subject to confidence of a pipeline. A rolling programme of investment will enable a competitive market and increasing efficiency overtime to minimise unit costs. We recommend urgent discussion to agree how to deliver on the Sector Deal commitments, including the extent to which this can be delivered with existing CP6 funding. This cannot wait for CP7 and the transition to GBR.
- **Ensure clear roles and responsibilities and look for opportunities to improve enhancement decision making:** RIA also requests more clarity on the future role of ORR with the transition towards GBR. Will the transition mean that ORR has a wider role on train services and enhancements, for example? The current Rail National Upgrade Programme process has led to a stop-start approach to enhancement funding and these delays add to cost, lead to uncertainty and undermine supplier investment in assets and skills. Other regulated sectors have moved to a TOTEX approach to enable efficient planning and delivery of operation, maintenance and renewals alongside enhancements. We recommend consideration of options to avoid stop-start decision making including greater delegated funding authority for Network Rail/GBR, treating digital investment as a renewal, and/or a return to funding pots for specific enhancements such as stations, freight and or access schemes. Whatever decisions are made, efficient delivery will require clear roles and responsibilities for ORR and GBR to avoid duplication and unnecessary bureaucracy. Timely decision making will also support better alignment between funding decisions and project readiness, rather than the current delays and uncertainty.

Kind regards



Kate Jennings
Policy Director, Railway Industry Association

Daniel Brown
Director: Economics, Markets and Economy
Office of Rail and Road
25 Cabot Square
London
E14 4QZ

By email to: pr23@orr.gov.uk

9 September 2021

Dear Mr Brown

Consultation on the launch of Periodic Review PR23

I am writing to you as Lead Officer for Transport for the South East (TfSE) responding to consultation through your open letter dated 17 June marking the launch of PR23.

As a sub-national transport body (STB), TfSE represents sixteen local transport authorities: Brighton and Hove, East Sussex, Hampshire, Kent, Medway, Surrey, West Sussex, the Isle of Wight, Portsmouth and Southampton, and the six Berkshire unitary authorities. They are each represented on the TfSE Partnership Board along with the region's five local enterprise partnerships, district and borough authority representatives, protected landscapes, National Highways, Network Rail and Transport for London.

Transport for the South East published its 30-year [transport strategy](#) in July 2020. In November 2020, the government confirmed that the transport strategy would be used to help decide where, when and how to invest in the South East's transport network. We are now undertaking a series of more detailed thematic-based and area-based studies, looking towards future implementation of our transport strategy. The conclusions from these studies will feed into a TfSE Strategic Investment Plan (SIP), which will be out to consultation in June/July 2022.

Rail – whether the infrastructure is provided by Network Rail (NR) or by Great British Railways (GBR) in the future – has important roles to play that will support delivery of the TfSE transport strategy. Rail can provide travel solutions with much lower emissions than road-based alternatives (whether passenger or freight). Our technical modelling suggests that investment in rail network enhancements can make very positive contributions to both economic growth and decarbonisation. But that requires operation, maintenance and renewal of the rail network to be properly funded too.

The rail network in TfSE's area comprises Network Rail's Southern region outside Greater London (including HS1), other than those lines west of the Hampshire county boundary. From NR's Wales and Western region, it includes the parts of the Wales and Western region in Berkshire and Hampshire. TfSE values the positive and cooperative working relationship with different Network Rail teams, which includes providing stakeholder inputs to each other's technical work.

TfSE supports ORR's four objectives for PR23 – safety, performance, asset sustainability and efficiency.

The detailed mechanisms for track access charges and delay attribution are more a matter for the rail industry itself than for an STB. TfSE expects track access charges to follow the principles set out in the rail white paper, including a better deal (pricing and access) for freight services to encourage mode shift. Regarding delay attribution, users of the rail network (and NR/GBR as System Operator) will still need to be suitably incentivised to minimise network and operational delays. With GBR in place, incentives to reduce train delays must become simpler and reflect the flexibility and cooperation between GBR and rail operators expected in the white paper. So, the PR23 process and outcomes (especially resourcing) need to be flexible enough to respond to changing circumstances as GBR gets off the ground.

TfSE expects ORR will be working closely with government, the GBR Transition Team (GBR TT), rail operators and other key players in the rail industry – and also with strategic stakeholders such as the seven STBs – in the process to set up GBR and its ways of working. The STBs can support the development of GBR and, for the London and South East area, TfSE is keen to play its part in support of the new strategic partnership to support housing, economic growth and the environment referenced in the white paper (page 42). Likewise, we expect to build on the positive working relationships we already have with Network Rail through the relevant GBR regions. I will discuss this with representatives of GBR TT when I meet them for the first time next week.

Decarbonising the transport sector is growing in importance, especially at TfSE – TfSE's transport strategy prioritises achieving net zero carbon in the South East by 2050. ORR should use PR23 as an opportunity to incentivise a step change reduction in the rail industry's carbon emissions (including in Network Rail's own activities) across 2024-2029.

This is an officer-level letter at this stage, subject to endorsement by TfSE's Partnership Board at its next meeting on 18 October; a further iteration of this response may therefore follow. There are no objections to ORR publishing this response.

Yours sincerely

A solid black rectangular box redacting the signature of Rupert Clubb.

Rupert Clubb
Lead Officer, Transport for the South East

Director
Rail

Buchanan House,
58 Port Dundas Road
Glasgow G4 0HF



TRANSPORT
SCOTLAND
CÒMHDHAIL ALBA

Date: 11 Oct 2021

Dan Brown

Office of Rail and Road (ORR)



Dear Dan,

Periodic Review 2023 (PR23) and Scottish Ministers' High Level Output Specification (HLOS)

Scotland's Railway is a vital part of the fabric of Scotland's communities. It has played an invaluable role throughout the COVID-19 pandemic and in support of economic recovery. And as we look to address the climate emergency, efficient, high performing rail services will be key to reducing transport's carbon footprint.

The environment in which the ORR launched PR23 is markedly different to that which was in place at the start of PR18. While we look forward to the future of our railways with huge optimism, the challenges which the industry faces are undeniable, particularly around net costs.

The industry is also facing a period of reform, initiated by the UK Government's Williams-Shapps plan for rail. While we have said for some time now that change is needed, it is as yet unclear how the UK Government plan will impact on Scotland's Railway. In that context, the ORR should not assume that what works for the UK Government will work for the Scottish Ministers and we welcome the statement in your launch letter that the ORR will be flexible in PR23 and open to different solutions depending on the policy of the funder.

As you know, our organisations have now had a number of very productive discussions on the approach to PR23 for Scotland and we look forward to that continuing. One of the lessons learned from PR18 is that we should engage in the Periodic Review much earlier than has been the case in the past.

Again, picking up on some of the broad themes in the launch letter, we would like to highlight the following.

1. A Shared Approach

We support the ORR's "*enduring focus*" on safety, performance, asset sustainability, and efficiency. We also agree with much of the process described for PR23. This includes enhanced collaboration which for Scotland will be among the ORR, Scotland's Railway and TS and with other key stakeholders (including the new ScotRail Trains Limited); binding together funding and outputs to deliver a distinctive settlement which addresses the particular challenges faced; and integrated decision making between the Scottish Ministers as funder, the ORR and Network Rail in Scotland. I agree with many of the ambitions described, whether that be ensuring that Network Rail is incentivised to work in an integrated manner with other parts of the sector; delivering net-zero carbon emissions within the rail industry; or focussing on the customer (passengers or freight businesses) and keeping them at the forefront of decision making. Underpinning realisation of all these ambitions is the need to drive down the net cost of delivery of the railway system, which must be an absolute requirement if other requirements are to be afforded.

2. Scottish Ministers' Priorities

There is a growing realisation that climate change is a present threat to infrastructure and provision of services across the public sector, including rail, and that the legacy impacts of the COVID-19 pandemic are likely to be significant. Unless, we turn process and ambition into practice, the negative repercussions for the industry and wider society will be hugely detrimental both financially and environmentally.

Tackling these twin imperatives will drive the Scottish Ministers' priorities for rail and the following elements are therefore expected to feature heavily in our approach to PR23:

- **Decarbonisation of Rail by 2035** – Through the National Transport Strategy 2 (NTS2) and the planned enhancements within Rail Services Decarbonisation Action Plan, the Scottish Ministers have set out this objective clearly. A key factor will be however, ensuring that the plans for OMR are working to support this policy priority.
- **Improved Resilience and Asset Management** – As the recent reports by Lord Robert Mair and Dame Julia Slingo explain, severe weather events are becoming more frequent and more destructive. What is also clear is that within the UK, Scotland is bearing the brunt of these conditions. A commensurate, distinctive response is required, which should also reflect on the benefit derived from the 21% increase in funding available to Network Rail for OMR in Scotland in Control Period 6 and the current state of Network Rail's knowledge of its assets in Scotland.
- **Growing the Freight Market** – We have led the way in support for rail freight with innovative regulatory targets and investment to encourage growth and promote rail freight as a greener, more cost effective alternative to road freight. We must unlock more opportunities for rail freight across the country.
- **Meeting the Net Cost Challenge** – It is no secret that the railway is facing a significant funding challenge and, even prior to COVID-19, there was a question about the long term financial sustainability of the industry in its

current form. Network Rail attracts significant public investment but there has been concerns for some time about how efficient it is in reality. For PR23, as a starting point, it is vitally important that we can work together to fully understand the unit costs for railway activities and how this compares to other railways and other sectors, such as energy and water. We also need to create an environment where Network Rail is incentivised to work with the industry to attract more users to rail (passenger and freight) and where they feel the full effects of poor performance and resilience on patronage and freight flows.

In our last HLOS, we outlined five Strategic Priorities for Rail: improved services improved capacity; improved value; more effective integration; and increasing inclusive economic growth. As we prepare our next HLOS and look towards the latter half of the decade, we will work with the ORR to review and refresh those.

3. Identifying Issues Early

Given the breadth of a Periodic Review, it is unrealistic to expect that all parties will agree on all matters. The experience in PR13 and PR18 was that a range of policy issues where we had a divergence of views emerged late on in the process, which took significant time and resource to seek to resolve. Some important elements of the Scottish HLOS were not included in the final determination, which has frustrated efficient progress with these issues since. There is therefore value to be had in looking to identify issues where there is likely to be a difference in view at as early a stage as possible.

The launch letter touches upon the Williams-Shapps White Paper and the role which Great British Railways is presumed to take post-reform. As part of the Rail Review, the Scottish Ministers presented a clear case for the full devolution of rail powers. The UK Government's plan set out in the White Paper will not deliver this nor will the Scottish Ministers accept a position where the devolved position with rail in Scotland is in any way eroded or undermined. It is therefore important throughout PR23 that the ORR is able to recognise the Scottish Ministers' statutory role to set a strategy for railways in Scotland and their role as funder and specifier, particularly where there may be a difference in approach between the Scottish and UK Governments.

We very much welcome the ORR's commitments to adapting to change and uncertainty and for the PR23 process to address the different priorities and needs of funders. However, our experience is that such intentions in previous Periodic Reviews have not always been borne out in the process. There is an opportunity with PR23 to get this right.

Next Steps

I believe there is much to build on and a shared understanding around many of the key issues, notably the net cost challenge and decarbonisation, but recognise that other issues will not be straight-forward and will require successful resolution for the sake of the long term health of the rail sector in Scotland, which is in the interests of all.

We are in the process of updating the statutory guidance to the ORR and would hope to be able to share a draft with you soon. Hopefully this, alongside the principles in the launch letter, will create a platform for a successful Periodic Review.

I am copying this letter to John Larkinson and Alex Hynes for information.

Yours sincerely,



Bill Reeve
Director of Rail