

28 July 2023

## **ORR consultation, 25 April 2023: *Proposals to modify Network Rail's network licence requirement on timetable publication***

### **Decision**

1. On 25 April 2023, we published a consultation document, seeking views on two proposed changes to Network Rail's network licence. This related to Network Rail-led, industry proposals to reform the way rail timetables are produced. Our consultation contained two proposals. The first proposed changing the text for Network Rail's requirement to provide timetable information "not less than twelve weeks" before a timetable change or the running of services. The second proposed modifying the definition of "Relevant Timetable Changes".
2. While acknowledging the challenges the reform programme faces in bringing together diverse views from funders, freight and passenger operators, this letter sets out why ORR will not proceed with the licence changes at this time. Based on the consultation responses, we consider that amending the reference to "twelve weeks" in the licence, as proposed, would remove an important layer of visibility and transparency. The second proposed modification was deemed to bring limited benefit to industry in terms of clarity.
3. Given the limited information available to passengers on how changing the licence condition might affect them practically, we consider that it is appropriate for the industry and funders to explain to passengers the timetabling reform programme and its expected impact so that any future proposals to ORR are fully evaluated in advance. The second proposed modification was deemed to bring limited benefit to industry in terms of clarity.

### **Reasons for decision**

#### *Background*

4. Rail timetables used by passengers and businesses to plan journeys are the result of numerous operators providing detailed information to Network Rail. The timetabling process is complex and is underpinned by industry contracts and licences to ensure that information from multiple operators can be compiled in time for users of the railway. A robust and stable timetable allows train operators to provide timetable information to passengers at least twelve weeks in advance of services (the "T-12" requirement) to achieve Informed Traveller.
5. Our first proposal was to amend Condition 7.18 of the network licence, to remove the explicit reference to the timescale of twelve weeks and replace it with the requirement for Network Rail to follow the timescales in the Network Code. This

would automatically align the timescales in the network licence with those in the Network Code, which sets the contractual requirements for timetable production.

6. Our second proposal was to modify the current definition of “Relevant Timetable Changes” in the network licence. This was to clarify that Network Rail must inform train operators of changes to the national timetable when they are introduced through the normal timetable development process in the Network Code, and not just in circumstances where changes are brought about at relatively short notice to accommodate works to renew, maintain and/or enhance the network. The effect of the modification would be for clarity only; it would not affect the definition otherwise.
7. For context, we referred to Network Rail’s *Better Timetables for Passengers and Freight* (“BTPF”) programme, because part of it would change the timescales for timetable production in Part D of the Network Code. As drafted in the BTPF proposal, future timetables would have a draft and unconfirmed status at twelve weeks. Network Rail would provide finalised timetable information to train operators at eight weeks. We asked for views on whether confirming timetables with less than twelve weeks’ notice would impact on planning journeys or in purchasing tickets.
8. The consultation document [Proposals to modify Network Rail’s network licence requirement on timetable publication](#) is available from our website.

#### *Responses to our proposals*

9. The first proposal, to remove the explicit reference to ‘twelve weeks’ in Condition 7.18 drew mixed responses from the industry, with support for and against being approximately even, and with some respondents not commenting specifically on that proposal.
10. Some supportive industry comments noted that aligning Condition 7.18 with the Network Code would be sensible. Others recognised that the amendment would have little (direct) impact on customers. Those objecting voiced concerns over a loss of visibility because changes to the Network Code contractual rules are made through industry agreement only. If the network licence modification were to proceed, the reduced visibility for stakeholders would not link well with the Informed Passenger initiative. Comments related to the views on a potential reduction to T-12 timescales are covered below.
11. The passenger representative bodies Transport Focus and London TravelWatch were not supportive of the proposed changes. The former also noted a future lack of visibility if the network licence were to be aligned automatically with a change to an industry process in which passenger representative bodies are not consulted formally.
12. Our second proposal, relating to the definition of “Relevant Timetable Changes”, attracted less comment. Some objectors to the Condition 7.18 amendment

responded with 'no comment' while other respondents suggested alternative drafting of the definition.

*Respondents' views on the potential to reduce the twelve-week publication period for timetable confirmation*

13. We received a range of views, some with additional evidence (notably TransPennine Express ("TPE"), GB Railfreight ("GBRf") and London North Eastern Railway ("LNER"). Important points from industry stakeholders, summarised below, included:
  - would affect industry revenue negatively (TPE);
  - would bring greater uncertainty for passenger train operators and not helpful to train crewing arrangements (LNER);
  - more uncertainty for freight train operators – comments included currently having to confirm delivery with customers only one to two weeks out, so further timescale compression is unwelcome (Freightliner Group ("Freightliner"), DB Cargo (UK) ("DBC"), and Rail Partners);
  - more uncertainty for passengers taking long-distance trips – especially with transport connections or booked accommodation (East Midlands Railway, Transport for the North, and Grand Central Rail);
  - (Conversely) probably no notable effect for majority of passenger journeys (Avanti West Coast, and Govia Thameslink Railway);
  - no evidence of passenger benefit, not helpful to passenger experience (LNER, Rail Partners, Transport Focus, and Transport Scotland);
  - less than twelve weeks' notice could potentially impact certain groups significantly (Transport Scotland), including those with accessibility and assistance needs (Transport for All); and
  - little or no information is available to form a view on the impact of T-8 (DBC, Freightliner, GBRf, and Disabled Persons Transport Advisory Committee ("DPTAC")).
14. Additionally, High Speed One (HS1) said that it would not change its own timescales to match Network Rail's. The Rail Delivery Group stressed the importance of having processes and timescales that provide a high degree of confidence and that would not be subject to pressure to change at the last minute.
15. Our call for views on the potential reduction of the T-12 timescale was the area to which members of the public responded - we received 100 responses. Most objections were based on the perception that reducing T-12 to T-8 would affect when tickets would become available for sale, or the price of tickets, or both.

Those who did comment on the potential for confirming timetable changes at less than twelve weeks were not supportive of the idea, with some mentioning the need (as above) for certainty in booking long distance journeys at an earlier time, not least because hotel bookings and the best rates need to be secured.

16. Redacted copies of the responses from industry stakeholders and the bodies representing the views and interests of passengers, as well as a summary of comments made by members of the public, can be found on our website - [Proposals to modify timetable publication in Network Rail's licence | Office of Rail and Road \(orr.gov.uk\)](https://www.orr.gov.uk/proposals-to-modify-timetable-publication-in-network-rail-s-licence). We do not publish individual responses received from members of the public.

### *Our consideration of the responses and revised position*

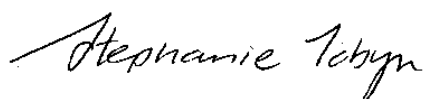
17. The consultation successfully elicited views from a wide range of parties. Some of whom were not aware of the BTPF initiative, nor the possibility of a change to the current longstanding twelve-week notification period. DPTAC acknowledged the visibility that ORR had given to the initiative but commented that stakeholders should have been engaged with more comprehensively before this stage.
18. The consultation was particularly useful in highlighting where misunderstandings or lack of information exists, particularly for passengers. Some operators do retail tickets at, or in advance, of twelve weeks currently. However, passengers understandably wanted more information on how a possible change to the T-12 licence condition would impact on their ability to book tickets (as well as prices).
19. The responses also indicated that the BTPF initiative does not have the complete support of the industry. This was shown by the opposition from freight train operators and the limited support from responding passenger train operators with views reflecting a preference for robust timetables at T-12.
20. With specific regard to the licence modifications we proposed, these were on the basis that:
  - a) by bringing the timescales in Condition 7.18 of Network Rail's network licence into automatic alignment with the timescales in Part D of the Network Code, Network Rail would not face the prospect of being technically non-compliant with its licence if ORR were to approve changes to such timescales under the Network Code; and
  - b) the amended definition of "Relevant Timetable Changes" would bring clarity to its scope – another point of good practice.
21. However, taking the consultation responses into account, on balance, we consider that the benefit the alignment could bring is outweighed by the visibility to the public that our regulatory process brings, as demonstrated by our consultation on a proposed licence modification. That process is valued and we consider it merits retaining this check to ensure decisions by industry which impact passengers do not depart from that. We are therefore not amending

Condition 7.18 at this time, in order to protect the interests of users of railway services.

22. With regard to our second proposal, to change the definition of “Relevant Timetable Changes” in the network licence, we note that the industry has acknowledged that it already interprets the definition of “Relevant Timetable Changes” as applying to changes to the national timetable as well as to short notice changes to accommodate works to renew, maintain and/or enhance the network. Given that, we do not consider it necessary to proceed with a licence modification for that point alone.

#### *Future considerations*

23. In considering any further timetabling-related proposals that would change either the Network Code or the network licence, we would expect to:
- a) consider a proposal for change when supported by a full analysis of the potential practical impacts from the change on passengers and industry, as well as evidence of wider stakeholder consultation;
  - b) consult on a proposed network licence change, attaching Network Rail’s evidence in support of the modification; and
  - c) consider it in light of this consultation and the extent to which the proposal is consistent with the timetabling provisions under the *Railways (Access, Management and Licensing of Railway Undertakings) Regulations 2016*.
24. I have [written separately](#) to the Department for Transport, Network Rail and the Industry Class Representative Committee, summarising the decision in this letter and ORR’s position on the BTPF initiative.
25. For further information on the BTPF initiative, please refer to Network Rail’s website: the [Network Code Current Proposals for Change; PfC119-120](#).
26. We are grateful to all those who responded to our consultation.

A handwritten signature in black ink that reads 'Stephanie Tobyn'.

**Stephanie Tobyn**