



House of Commons
Transport Committee

**Investing in the
railway: Government
and the Office of Rail
Regulation Responses
to the Committee's
Seventh Report of
Session 2014–15**

**Eleventh Special Report of Session
2014–15**

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The Transport Committee

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The Reports of the Committee and the formal minutes relating to that report are available in a printed volume. Written evidence is published on the internet only.

Committee staff

The current staff of the Committee are Gordon Clarke (Clerk), Nick Beech (Second Clerk), Alexandra Meakin (Committee Specialist), Adrian Hitchins (Senior Committee Assistant), Stewart McIlvenna (Committee Assistant), and Hannah Pearce (Media Officer)

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Eleventh Special Report

On 5 March 2015 we received a response from the Government to the Transport Committee's Seventh Report of 2014–15, *Investing in the railway* which we publish with this Special Report.¹

We also publish a response we received from the Office of Rail Regulation.

Introduction

The Government welcomes this opportunity to respond to the Transport Select Committee's recommendations on investing in the railway.

Government Response

Government policy on rail

Recommendation 1. The Government has set out an ambitious investment programme for the classic rail network. The record amounts of funding committed demonstrates a welcome commitment to meeting the high demand for rail, even at a time of limits on public spending. (Paragraph 8)

The Government notes the Committee's positive view.

Recommendation 2. The stated ambition of successive governments has been to reduce the subsidy to the rail network. This has been achieved to date, but given the forecast growth, and need to increase capacity, has prompted the question of to what extent passengers will be required to pay for long-term infrastructure improvements, on top of inflation increases to fares, which principally cover operating costs. Many passengers have no option other than to use the train. (Paragraph 9)

Fares revenue is crucial to funding day-to-day railway operations and the upgrade programme, all of which benefit passengers. The Government recognises the concern consumers have around the cost of rail fares. In 2014 and again in 2015 the Government capped regulated fare rises to inflation.

Responsible stewardship of the railways means bearing down on running costs and investing in a sustainable way. The Government has stated its ambition to cap fare rises at the level of inflation as soon as economic conditions allow and savings have been made to the cost of running the railways.

Recommendation 3. We remain concerned that rail policy is considered in isolation, and repeat our recommendation for the Department to commit to a wider transport strategy. (Paragraph 10)

¹ HC 257, published on 23 January 2015.

The Department agrees that long-term strategy and planning are important. At SR13, the Government published *Investing in Britain's Future*, which sets out the long-term commitments to infrastructure investment, including over £70 billion for transport investment. The Department also published *Transport – an engine for growth*, in August 2013, which are short explanatory documents which give strategic context to the substantial investments set out in the recent Spending Round and show how investments over this Parliament and the next fit together.

A number of strategic papers set out the Government's plans and vision for transport beyond the next Parliament, such as the: *Strategic Case for HS2*; *Road Investment Strategy*; and the *National policy statement for national networks*. In December 2014, the Government published the *Road Investment Strategy*, a suite of documents introducing long term strategic planning and funding for the strategic road network. The strategy outlines the Government's long term vision for the strategic road network, the funding available and investments planned over the first Road Period (2015-16 to 2019-20), and a Performance Specification for the new Strategic Highways Company. The *National policy statement for national networks*, published in December 2014, sets out the Government's vision and approach to development of the national road and rail networks in England, including the development of strategic rail freight interchanges. Together with the long-term investment planning frameworks for road and rail, the national policy statement supports integration across the transport modes.

Planning for rail investment

Recommendation 4. With the exception of the confusion and concerns over freight access charges, witnesses were broadly positive about the Periodic Review 2013 process. It is concerning, however, that witnesses representing key stakeholders for the rail industry feel that there is no clear long-term plan for the railway. We call on Network Rail to publish a vision for the railway up to 2043, with a breakdown of the work expected to be carried out in each Control Period. The plan should set out confirmed objectives and plans for the next five years, with provisional plans for each five year period. Consultation and flexibility should be built into this plan, allowing adjustment through the periodic review process, and to respond to changing costs and demand. This flexibility would increase as the plan looks further into the future, but the clarity of objectives—and the advanced planning that should be underway for the next two control periods—will provide much-needed certainty for the rail industry and stakeholders. We believe that publishing this long-term plan is vital for transparency, and will help to secure all-party agreement and effective engagement with the periodic review process. (Paragraph 19)

The Government agrees that planning for the longer term is important if we are to identify strategic investment options for developing the network so that the railway helps to drive growth all around the country.

The recognition of this wider economic role of rail lies at the heart of the cross industry Long Term Planning Process (LTPP). The LTPP has been developed to allow the industry to respond flexibly to the challenges posed by the forecast in increased demand for passenger and freight services, whilst planning the long term capability of the rail network up to 30 years ahead. The LTPP involves stakeholders, with the local transport authorities

being part of the LTPP route study teams and all local authorities and Local Enterprise Partnerships having the opportunity to comment on the route study during the consultation phase of the process. The industry is also developing long term strategies in areas such as rolling stock and technology. More information on the industry's approach to long term planning can be found in *The Way Ahead*, published on behalf of the industry by the Rail Delivery Group.

Network Rail publishes a series of documents as part of the LTPP to provide a vision for the network to 2043. These include the Route Studies for different areas of the country and are available at <http://www.networkrail.co.uk/long-term-planning-process/route-studies/>.

The industry will bring together the work from the LTPP and other long term planning work in the Initial Industry Plan in September 2016. This will provide choices to funders of the industry in the medium term, consistent with the long term strategy, to inform the Government's High Level Output Specification (the Rail Investment Strategy) in 2017.

Network Rail publishes potential future enhancements to the railway in Control Periods beyond 2019 as part of the route studies and LTPP.

The Enhancements Cost Adjustment Mechanism

Recommendation 5. We are concerned that key rail enhancement projects—such as electrification in the North and North West of England—have been announced by Ministers without Network Rail having a clear estimate of what the projects will cost, leading to uncertainty about whether the projects will be delivered on time, or at all. This could be avoided through greater clarity of the status of each announced project. Network Rail should publish a "traffic light" status update for each project committed to in a control period, which would make clear whether, for example a project had been provisionally approved subject to detailed costings, finally approved but without a start date or approved and ready to start. When a project is announced, the Department and Network Rail must be clear and transparent about how it is to be funded, and how advanced it is in costings. This will provide confidence in the delivery of enhancement projects. Electrification of lines in the North West, the North trans-Pennine line, and the Midland Main Line, should not be put at risk due to the projected overspend on the Great Western Main Line. If a rail electrification project is announced for delivery in a set time period, there should be an expectation that it will be delivered on time. (Paragraph 23)

The Department is working with Network Rail and the regulator to ensure that these points are addressed for investments delivered in the next Control Period, and to ensure that this information is incorporated in Network Rail's regulated Delivery Plan. In the current period, the Government is taking forward the biggest rail modernisation programme for over a century. This will transform our railway. Network Rail will spend £38 billion between 2014-2019 on running and improving the railway. It is an enormous and challenging programme of work. We have made it clear to Network Rail that we expect the company to deliver the benefits set out in the Government's Railway Investment Strategy across the regions.

Value for money and priorities

Recommendation 6. The Department for Transport should increase transparency around rail spending and projected outcomes. It should publish the criteria it uses for allocating spending and clarify how it decides which projects will get Government funding. To assess whether the Government has allocated spending appropriately, and to achieve maximum benefits, there must be a transparent way of tracking the investment—and outcomes—in each control period. We recommend: (Paragraph 27)

Investment decisions taken by the Department are subject to the Transport Business Case. The Transport Business Case provides a description of the approach followed by the Department and its Ministers when making major investment decisions. The approach taken is in line with Treasury's recommended five case model and sets out whether schemes:

- are supported by a robust case for change that fits with wider public policy objectives – the 'strategic case';
- demonstrate value for money – the 'economic case';
- are commercially viable – the 'commercial case';
- are financially affordable – the 'financial case'; and
- are achievable – the 'management case'.

Ultimately decisions regarding which specific investments are chosen is a matter for Ministers given the wide range of competing demands for finite capital.

The Department has also put in place the Benefits Management Framework which aims to demonstrate that we are maximising the benefits achieved for passengers, stakeholders and government from the investments we are making.

The Benefits Management Framework and Transport Appraisal for Investment Decisions are mutually supportive. The Framework sets out how benefits should be treated within the context of the standard five case transport business case approach and is consistent with the methods for understanding and valuing transport investments set out in WebTAG.

More information is available here:

<https://www.gov.uk/government/publications/transport-business-case>

Recommendation 7. The development of an "outturn statement" for each Control Period making clear work agreed to, work done, work carried over along with financial outturn, and the split of spending between operations and enhancement projects. (Paragraph 27.a)

Network Rail publishes an Annual Return each year which reports the work achieved and progress against the Periodic Review outputs. In the final year of the Control Period this includes an overview across the whole Control Period. For enhancements, the 2014 Annual Return included (p237) a table of milestones showing those achieved and those deferred into CP5. Financial information is presented in the Annual Return, however a more

detailed financial overview is also published by Network Rail in the form of the Regulatory Financial Statements which include cumulative financial information for the control period, the final year thus providing a review of the organisations financial outturn for the whole control period. The ORR reviews these statements and then publishes its Annual Efficiency and Finance Assessment which assesses Network Rail’s financial performance. The statements include the split of spending between operations and enhancement projects as well as spending split in other ways - e.g. by route.

More information is available here:

http://orr.gov.uk/_data/assets/pdf_file/0003/14835/network-rail-annual-efficiency-and-finance-assessment-2013-14.pdf

Recommendation 8. Funding announcements for Control Periods should differentiate more clearly between spending on operating the network—the running costs without any capacity/infrastructure work—and enhancements. (Paragraph 27.b)

For each Control Period the ORR publishes its Periodic Review. This document shows a full breakdown of the funding announced for the forthcoming Control Period – showing the amounts allocated for both operation of the network and enhancements to it.

More information is available here:

http://orr.gov.uk/_data/assets/pdf_file/0011/452/pr13-final-determination.pdf

Recommendation 9. Each spending announcement made by Government, Network Rail or the train operating companies should make it clear where the funding has originated—through the Control Period funding, separate Government funding (e.g. the Local Growth Fund), or private investment from train operating companies or the rolling stock operating companies. (Paragraph 27.c)

Recommendation 10. This approach fits with the Treasury's Line of Sight principles. We think that this information could be published by the Department at no, or minimal extra cost, as all this information should be already easily available internally for accounting or management purposes. (Paragraph 27)

The Government always endeavours to include details of funding and financing arrangements alongside announcements on spending and investments in the rail network and will continue to do so. In some exceptional cases either for reasons of commercial sensitivity or because the mix of funding is more complex, this is not always possible.

The ORR currently provides high level breakdown of funding for the rail industry, broken down into Government funding and private funding. The information is provided in the annual GB Rail Financial Report

More information is available here:

http://orr.gov.uk/_data/assets/pdf_file/0005/16997/gb-rail-industry-financials-2013-14.pdf

Regional investment

Recommendation 11. We welcome the substantial investment in CP5, and the commitment to electrification and increasing commuting capacity in a time of austerity. We support the Northern Hub programme, and welcome the indications that the Department for Transport will listen to the case for investment in the North and East of England. We remain concerned that the Benefit Cost Ratio used to allocate rail spending has failed to give sufficient weight to the wider economic and social benefits of rail investment. Focusing simply on passenger numbers and the short-term economic return from rail investment will inevitably continue to focus investment in London and the South East. Instead, we recommend the Department for Transport adopt and publish broader criteria for allocating funding, which consider the contribution to the Government's wider policy objectives—such as long-term economic regeneration, environmental policy or social need. Rail funding must still deliver value for money for the taxpayer, with the economic case for each project subject to rigorous testing against the revised criteria. This approach, however, will result in a fairer allocation of rail investment across the country; other regions, such as the far south west, have been "starved" of investment. (Paragraph 31)

The Department follows the HM Treasury five-case approach in making investment decisions. This covers not only the economic case, but also the strategic, financial, commercial and management cases. Investment spending is not therefore allocated solely on the basis of the benefit cost ratio.

The Department's guidance on assessing value for money, as set out in WebTAG, requires an economic appraisal to cover all the relevant impacts on society, including social and environmental impacts, and is not limited to short-term financial impacts.

Regional Allocation

Investment is focused on best value schemes and based on industry recommendations to the Government. The rail industry identifies where demand is forecast to exceed existing rail capacity and puts forward the options for resolving this. Peak demand growth is specifically forecast and measures to provide the necessary capacity across the 10 major cities including London are included in the current investment strategy to 2019.

Rail spend in one region can have a huge benefit in another region. For example spend in London helps provide capacity to enable an extra London – Leeds/North East long distance train to operate. Spending at Reading benefits the journey time and reliability of South West long distance services.

Investment in the South West

- Electrification between London and Bristol both via Bath and via Bristol Parkway, Bristol Parkway to Cardiff and Swansea, Didcot to Oxford, Reading to Newbury and Reading to Basingstoke. This will be accompanied by the introduction of new Intercity Express Programme (IEP) trains on London to Bristol and South Wales services.

- The double-tracking of Swindon – Kemble completed in August 2014.
- Extra track capacity between Bristol Temple Meads and Filton Abbey Wood (four tracking of Filton Bank) and an extra platform at Bristol Parkway by December 2017.
- Increase the passenger handling capacity of Bristol Temple Meads station including the re-use of the Grade 1 listed Digby Wyatt train shed. Station enlargement integrated with the wider Enterprise Zone upgrade to the area.
- Funding has been provided towards a new station at Newcourt, Exeter from the New Stations Fund.
- Network Rail spent £40m in 2014 on repairing and strengthening the line at Dawlish after the severe weather. A further £30m is being provided by Government towards resilience and protection on the Dawlish route for 2015.
- The Chancellor has committed to developing a comprehensive rail strategy for the south-west by setting up a south-west Peninsula Rail Task Force – this strategy will increase resilience, reduce journey times, and increase capacity, responding to the 3-point plan of the south-west Connectivity Study. It will also address the question of the potential.
- The £147m Cornwall Rail Improvement Package developed by Cornwall Council, Rail Industry partners and the Government which includes upgrades to main line signalling to enable a regular frequency and relocates Night Riviera Sleeper maintenance activities from London to Long Rock, Penzance.

The Northern and TransPennine Express franchises

Recommendation 12. We are disappointed that the consultation proposals for the Northern and TransPennine Express franchises have not focused on increasing capacity and improving rolling stock, but instead suggested that passengers in the north must make trade-offs between fares and decent journeys. While the devolution of the franchises to Rail North is welcome, it stops well short of devolution. The consultation document suggests that the body's powers will be limited—indeed, the Secretary of State will retain the final decision-making powers. Rail North was clear that fare increases on the Northern franchise could not be considered prior to improvements in rolling stock and services. If devolution is genuine, Rail North's stance should be reflected in the Invitation to Tender. The Department must also set out how the interests of rail passengers outside the North's city regions will be protected under the devolution to Rail North. Network Rail must also set out why its payment—which makes up part of the stated subsidy to each Train Operating Company—allocates the same costs for maintaining the rails to much smaller Pacer trains, as it does to the larger and faster Pendolino trains. (Paragraph 39)

The Government's partnership with Rail North is a significant initial step towards devolution of rail service provision in the North of England. The Government and Rail North Leaders agreed that an initial partnership would be appropriate given the scale of the two franchises and the innovative nature of Rail North's governance arrangements which

bring together 29 local transport authorities from across the North of England. The agreed partnership principles, which the Department is working with Rail North Ltd to turn into a binding agreement, make provision for the balance of responsibilities and risks in management and development of the franchises to change over time. It is intended that Rail North Ltd should have the ability to vary future fare levels for these franchises, bearing the financial consequences, in addition to the normal fare change mechanism available to the Secretary of State.

Through a Leaders Committee of a local authority Association appointing directors to the Board of Rail North Ltd based on geographical groupings of the 29 authorities, Rail North's formal governance arrangements will ensure that all areas of the North are fairly represented in future decision making on these franchises.

On the question of Network Rail's access charges, the Department understands that Network Rail will provide a detailed explanation in its response to the Committee. Network Rail does not allocate the same cost to smaller trains as it does larger ones. There are two broad types of access charge: variable charges and fixed charges. While fixed charges do not vary with the type of trains, variable charges change with the level of use of the network. In the context of track assets, Network Rail's variable charges are differentiated by both type and length of train. As a result, the variable charge (per mile) is significantly higher for an 11-car Class 390 Pendolino than for a 2-car Pacer train. Variable charges are designed to reflect the different costs Network Rail faces when accommodating different trains. The setting of access charges is subject to review and consultation during a Periodic Review by the ORR.

Rolling stock

Recommendation 13. The rolling stock operating company involved in the proposed transfer of trains for the TransPennine Express franchise to Chiltern Railways sought to reassure us when he told us that the trains would stay with TransPennine Express until Chiltern Railways and the Department decided to transfer them. This has only blurred the lines of accountability, as the Department was keen to stress that the factors involved in this case were outside its control, before announcing that it had worked with the franchisees to resolve the situation. We welcome the Department's commitment to making sure there will not be a shortfall of trains on the TransPennine Express line but we expect current capacity and schedules to be maintained. The Department must continue to accept responsibility for rolling stock, and ensuring that there are sufficient trains to operate timetabled services. (Paragraph 46)

Recommendation 14. The TransPennine Express/Chiltern Railways transfer of rolling stock has been symptomatic of a fundamental weakness in the way rolling stock is leased and managed. This has also been demonstrated during the electrification programme, where a disconnect between the funding of new or enhanced infrastructure and the procurement of rolling stock risks leaving passengers stranded with no trains running on newly electrified lines. The Department must take responsibility for aligning infrastructure, franchises and rolling stock procurement. This is necessary so that uncertainty can be reduced for industry and investment made rather than deferred. (Paragraph 47)

Government policy sets outcomes and places responsibility for delivery on industry, through a structured planning process involving Network Rail and partners. In line with the 2012 Rail Command Paper, the Department expects the market to lead the replacement and refurbishment of rolling stock, though it reserves the right to lead in some circumstances.

Both the Department and industry have increased the amount of information available to the market. Industry and the supply chain rely on the Rail Franchising Schedule, Rail Investment Strategy and industry's own Rolling Stock Strategy to plan. The Department has created a team responsible for interdependencies between franchise services, network infrastructure and rolling stock. Nevertheless, the policy set out in the Rail Command Paper remains, the market leads on rolling stock through franchise competitions.

As electrification progresses and new vehicles are delivered we expect there to be a surplus of both electric and, although later, diesel vehicles. The additional rolling stock required as a result of the Rail Investment Strategy will be delivered principally through the franchising programme. Where interventions fall outside of the franchising schedule, as with the recent South West Trains order, the Department will ask the franchisee for a proposal.

Pacer trains

Recommendation 15. By refusing to give a date for when the Pacer trains will be taken out of service and simply saying that he "hopes" they have had their day, the Secretary of State has suggested that he does not have the powers to ensure a decent quality of train for passengers in the North and South West of England or in Wales. Alternatively, his admission that he would not like to be held to account for the Pacers' withdrawal suggests that he does have these powers, but is unwilling to match his rhetoric with action. We find it concerning that the rolling stock operating company Porterbrook is prepared to spend £800,000 refurbishing the Pacer to extend its use on our network. It is unacceptable that Pacer trains—built in the mid-1980s and of questionable safety—are still in use on busy rail lines. We recommend the Secretary of State uses his franchise specification powers to require the removal of Pacer trains from the rail network by 2020 at the latest. (Paragraph 51)

The specification for the new Northern franchise includes a requirement to phase out all of the Pacer fleet by the beginning of 2020, as well as a major modernisation of other older fleets operated by the franchise. The franchise specification also requires a minimum of 120 newly-built vehicles to be introduced. Alongside a significant inward cascade of electric and diesel rolling stock, which the specification also requires to be fully modernised, this will deliver a transformational increase in both the quality and the capacity of the Northern rolling stock fleet.

Recommendation 16. The cascading of train carriages out of the South East may provide the most efficient way for the rolling stock operating companies to manage their rolling stock. It is concerning that the Department has chosen to order brand new trains for passengers in London and the South East, while expecting passengers in the rest of the country to be content with reconditioned older trains—cast-offs from more prosperous areas. (Paragraph 52)

Franchises across the country will benefit from new and modern vehicles. East Coast, for instance, will benefit from new IEP vehicles. The Northern and TransPennine Express franchise competitions are underway and we expect the market to deliver new vehicles as part of this or through an in-franchise change. Across the country, the franchising programme will also deliver good quality refurbishment of existing stock, done to a high standard within the United Kingdom.

Freight

Recommendation 17. Rail freight is a crucial part of our economy, and its needs must be balanced against that of passenger rail. The Government should produce a freight strategy, considering road and rail freight together, to ensure a coherent and fair policy. It must also set out and consult on the practical steps required to achieve its strategic outcomes, including the modal shift from road to rail and the decarbonisation of freight transport. We believe the Office of Rail Regulation must consult on the track access charging regime with a view to reducing the current complexity. (Paragraph 60)

The recently-designated *National policy statement for national networks* sets out, for the purposes of the planning system, the Government's policy relating to nationally significant infrastructure projects on the road and rail networks, including strategic rail freight interchanges. The Government supports the transfer of freight from road to rail and shipping and inland waterways where it is practical, economic and environmentally sustainable to do so. This can provide benefits in terms of reduced congestion, lower emissions, improved air quality and better road safety.

However, it must be recognised that the transport of goods is a commercial undertaking, in which the various transport modes compete to provide the service their customers require. There already exists a strong element of co-ordination between road and rail, as there are very few rail freight journeys that do not need a road element for the "last mile". However, over shorter distances – typically within a radius of 100 miles – the handling costs of transferring to rail are likely to make this uneconomic. Rather than seek to intervene in commercial decisions that properly belong to the logistics sector, the Government seeks to ensure that as far as possible there is a level playing field between the transport modes.

Resilience

Recommendation 18. We commend the work of the "Orange Army" of Network Rail engineers who rebuilt the seawall and re-opened the railway line at Dawlish, following the devastating storms. While the tireless work of the engineers limited the length of the closure of the line, the economic impact on the region was still severe. It is not clear whether the Treasury's cost-benefit assessments take the cost of such closures, or the cost of doing nothing, into account, when prioritising investment on resilience or alternative lines. We call on the Department to state whether it is prepared to fund schemes which do not meet the required cost-benefit ratio, if the alternative is a closed line. Where lines are closed, as in the case of Dawlish, the necessary costs incurred in re-opening the line should not jeopardise or delay the long-term work to improve the resilience of the network or deliver promised enhancements. (Paragraph 64)

The economic appraisal takes into account all impacts on society. If a scheme included a line closure then an estimate of the economic impact of the closure would be taken into account in the appraisal. The Department would expect to consider each proposal on its merits on a case by case basis.

Connectivity with HS2

Recommendation 19. We welcome the proposals to improve East-West connectivity. We call for clarity on whether these proposals will be truly East-West: extending from Hull to Liverpool, with the benefits that would bring for freight and passenger rail. It is also not at all clear whether these proposals—HS3 as the Chancellor has referred to them—will entail a new line or improvements to existing lines. The Department should clarify this point, and also make clear what long-term objectives it has for improving East-West connectivity across the country. (Paragraph 68)

The Government will set out its plans for developing East-West connectivity in the Northern Transport Strategy. An interim report will be published in March.

Recommendation 20. The Government should set out the details and timing of planned investment in the classic network in order to maximise the benefits of HS2; improving rail access for all passengers and increasing capacity for freight. The planning process should consider HS2 and trans-Pennine improvements as part of one overall rail network. (Paragraph 69)

The approach for Control Period 6 will continue the current strategy, focusing on increasing network capacity through additional tracks, larger stations, and changes to signalling technology, preparation for, and construction of, new routes such as HS2 and East-West Rail, and further electrification of the network.

In CP6 we will look to develop the shape and service structure of the existing network to be ready for the opportunities of High Speed 2.

Performance of Network Rail

Recommendation 21. The failure of Network Rail at Christmas, which left thousands of passengers stranded, was unacceptable. We welcome Mark Carne's unreserved apology to the travelling public, and the publication of Dr Francis Paonessa's report into the disruption. Network Rail's original statement that the failure at King's Cross was "really regrettable and unfortunate but it is a small part of a massive amount of engineering investment taking place over Christmas" offered little consolation to passengers stranded in the cold. Indeed, the fact that King's Cross was only one of a number of overrunning engineering works and signalling problems that plagued the rail network over the festive period offers further evidence of systemic weaknesses in Network Rail's capacity to plan and execute engineering works. Given the ambitious investment programme that Network Rail will receive £38 billion to deliver by 2019, this is a matter of great concern. If Network Rail is to maintain and improve the rail network in CP5 it will require managing multiple, complex engineering projects simultaneously. Network Rail must demonstrate how it will learn from the mistakes it

has made in its engineering works and maintain a decent service to passengers while enhancement work is carried out. (Paragraph 78)

Recommendation 22. When things do go wrong, Network Rail must have adequate contingency plans. It should not abdicate its responsibility to passengers, particularly vulnerable ones such as the elderly or families with young children. We welcome Network Rail's proposed review of contingency measures and the timing of engineering works. In addition Network Rail must work with Passenger Focus and the train operating companies to improve the communication with passengers when engineering works fail. (Paragraph 79)

The Government agrees it is vital that the rail industry does more to look after passengers and keep them better informed if things go wrong, and welcomes the steps being taken by Network Rail, with the train operators, to ensure the lessons from the events over Christmas are learned.

On 12 January Network Rail published an initial internal review into the sequence of events and what went wrong when engineering works overran over the weekend of 27 and 28 December 2014. The report set out a number of improvements that Network Rail must make. The company recognises that it needs to improve both project and operational contingency management, so that better identification of delivery problems results in better operation of recovery services, and that it must work with industry stakeholders to provide better information to passengers.

On 12 February ORR published the findings of its independent investigation of the matter and set out requirements to ensure that Network Rail, working with train operators, develops clear contingency plans which help passengers if works overrun, and that if needed, the plans are implemented in a timely and effective way.

In the light of these reviews Network Rail is looking at all contingency plans for works scheduled over Easter and the May 2015 bank holidays. ORR expects Network Rail to have implemented all the recommendations, including those which require work with train operators, in advance of Christmas 2015 engineering works. The regulator will audit implementation to make sure the improvements are all in place.

The industry is also looking at how it can improve communication with passengers both in times of disruption and during normal operation of the railway. A key theme is the digitisation of communications, with the industry making significant investment in new technology to provide passengers with more real time information.

Recommendation 23. While it is essential for Network Rail to deliver value for money for the taxpayer, efficiency savings cannot put the safety and reliability of the rail network at risk. The ORR should consider whether the disruption over Christmas and the New Year suggests that Network Rail is unable to deliver the enhancements programme planned for CP5, alongside a safety-focused, high-performing railway each and every day. In the light of the change of status of Network Rail the ORR must reconsider whether fining a public sector body remains an acceptable means for the regulator to exert control. (Paragraph 80)

The Government notes this recommendation which is for ORR to answer.

Reclassification of Network Rail

Recommendation 24. The test of the new relationship between Network Rail and the Minister will be how the Minister responds to poor performance by Network Rail, given the Government's stated commitment not to micro-manage the railways. It is not clear whether the Secretary of State will use the powers set out in the framework agreement. The reclassification of Network Rail strengthens the case for greater accountability and transparency in the way we have recommended in paragraph 27. (Paragraph 83)

The Government recognises that Network Rail's performance recently has not been satisfactory. High performance is expected of Network Rail, and it is a key part of the regulator's role to monitor and evaluate this and to hold Network Rail to account both for the day-to-day performance of the network and progress against its delivery requirements.

The Government remains committed to ensuring that Network Rail retains the operational and commercial flexibility to be accountable for managing and improving rail infrastructure. Network Rail has an experienced board who are responsible for the company's internal governance and the Chief Executive of Network Rail is now an Accounting Officer and is therefore directly accountable to Parliament for the company's performance and use of public funds.

However the Secretary of State reserves the power to remove Network Rail's Chair and the rest of its board in exceptional circumstances, or to appoint a Special Director to the board. The Department for Transport will also agree Network Rail's business plans to ensure it has a credible approach to delivery.

The Government also recognises the need for greater transparency given reclassification, which is why Network Rail is being made subject to the Freedom of Information Act from late March.

Recommendation 25. The Government should set out in its response how it plans the future financing of Network Rail and how it expects the financing of rail investment to be restructured. Spending more on debt interest than on asset maintenance is a looming political problem. (Paragraph 84)

Network Rail continues to be funded by a combination of grant funding from government, Track Access Charges from operators, and some income from other sources such as property. Network Rail has also previously used debt to finance infrastructure investment, which is common across many regulated network service providers. It enables Network Rail to smooth investment over time and offers the flexibility to raise funds as and when required to meet capital investment and operational needs.

In response to the ONS's decision to reclassify Network Rail to the public sector, the Secretary of State, in July 2014, agreed a loan facility to replace Network Rail's previous borrowing arrangements, improving value for money to the taxpayer and placing a cap on how much Network Rail can add to public debt. This facility has been agreed with Network Rail to provide sufficient financing for delivery in Control Period 5 (2014-19).

The loan facility will be reviewed by 2017, as set out in the Network Rail Framework Agreement. How Network Rail will be financed beyond 2019 will be determined as part of that review. The Government is always considering what provides best value for money to the taxpayer, but we have no current plans to restructure Network Rail's existing debt.

Conclusion

Recommendation 26. We welcome the record levels of spending in the rail network to 2019. Increasing capacity on the classic network will help to meet the current and growing demand for rail services; and the electrification programme will make journeys quicker and more reliable, as well as reducing the environmental impact of rail travel. We heard that the Northern Hub programme will deliver over £4 billion of wider economic benefits to the North. Such criteria for the allocation of spending will aid the Department in assessing bids for future investment, and ensure a fair proportion of investment in different regions of the country. Treasury statistics have shown that there is a large variation in the level of public spending on rail across different regions of the country. (Paragraph 85)

Investment is focused on best value schemes and is informed by industry recommendations to the Government. As noted in the response to recommendation 6, ultimately decisions regarding which specific investments are chosen is a matter for Ministers given the wide range of competing demands across the country for a finite amount of funding. While the Government is concerned to ensure there is a regional balance, an investment in one region can provide benefits for other regions, for example by removing bottlenecks, increasing capacity, improving reliability and speeding up journey times between regions.

Recommendation 27. To maximise the benefits of the increased spending it should be clear how it fits into a longer-term strategic vision for the railways. While the control periods are a useful management tool, they need to be matched by the publication of a long-term plan, which brings together plans for franchising, rolling stock and enhancements work, and considers the rail network as a whole. Connectivity between the high speed and classic network should be prioritised, as should links to ports and airports. This plan should be linked to an "outturn statement" for each control period, helping to track spending, provide greater transparency around benefits realisation. This will strengthen the accountability of Network Rail and the ORR to Government and Parliament, as it will be clear if projected outcomes have materialised. Given the concerns we have expressed about Network Rail's capacity to deliver the CP5 programme, it is vital for passengers and taxpayers that it is held to account in this way. (Paragraph 86)

The Department works with the rail industry and other stakeholders on long-term planning for the rail network to achieve the overriding objectives of increasing capacity, improving journey options, increasing standards of customer service, reliability and safety, and improving efficiency. The Rail Technical Strategy and industry-led initiatives such as the digital railway also contribute to the long-term vision for the railway.

These inform decisions on the outcomes sought from the railway, how they should be delivered, and the funding available. In particular, the department produces high level

outcome requirements to inform franchise procurements and major projects. The Department works to secure these outcomes in partnership with the ORR, Network Rail, Passenger Focus, Transport Scotland, the Welsh Government, Transport for London, the rail industry and local partners.

This approach reflects the Government's belief that investing in rail services is a key enabler of sustaining and developing the economy across the whole of the UK. This includes continuing to improve access to city centres and connectivity between cities and communities as well as improving rail links to ports and airports to improve international competitiveness.

Recommendation 28. A longer-term look at rail should be part of a wider route-based transport strategy that considers road and rail together, and recognises the interconnections between different modes of transport. This approach would enable the Government to consider whether proposed investments, in road or rail, offer the most effective and efficient way to improve connectivity and boost economic growth. As we have previously recommended, working in this way would allow for consultation with local authorities and local enterprise partnerships, for the benefit of rail passengers and road users, and taxpayers in general. (Paragraph 87)

The *National policy statement for national networks* sets out the Government's vision and approach to development of the national road and rail networks in England, including the development of strategic rail freight interchanges. Together with the long-term investment planning frameworks for road and rail, the national policy statement supports integration across the transport modes. As part of the consenting process for these projects, scheme promoters are expected to collaborate closely with other network providers at an early stage. This will help support better integration across networks managed by different operators. In making investment decisions Strategic Economic Plans and the route strategies that feed into the Rail and Road Investment Strategies, provide opportunity to integrate development on the national and local transport networks where that is sensible and helps drive growth and improve quality of life.

Response from the Office of Rail Regulation

Following the release of the report into Investing in the railway on 19th January, ORR has considered the Committee's recommendations and would like to respond on a number of the conclusions reached.

Firstly, in relation to freight, the Committee reached the following conclusion:

“17. Rail freight is a crucial part of our economy, and its needs must be balanced against that of passenger rail. The Government should produce a freight strategy, considering road and rail freight together, to ensure a coherent and fair policy. It must also set out and consult on the practical steps required to achieve its strategic outcomes, including the modal shift from road to rail and the decarbonisation of freight transport. We believe the Office of Rail Regulation must consult on the track access charging regime with a view to reducing the current complexity. (Paragraph 60)”

ORR has committed to review Network Rail's charges and incentives for its next five year funding period (CP6, 2019-2024). To inform this work, the Rail Delivery Group (RDG) has launched a programme of work looking at how rail operators are charged to run trains on Network Rail infrastructure.

ORR acknowledges that the process for PR13 could have been conducted better as far as the freight issues were concerned and these points have been picked up in our own process review for incorporation in the next periodic review. We have engaged extensively with the rail freight industry to understand these issues over the last eighteen months and we have sought to work more closely with freight stakeholders to gain a better understanding of the sector and its customers and the impact of our work upon it.

We have already begun the process of engagement with a wide range of stakeholders on the charging regime for PR18 in preparation for the publication of an early initial consultation on the options for future charging structures (with draft impact assessments) during Q4 2015. As part of this engagement we have spoken directly with freight stakeholders about their concerns, such as the potential commercial impacts on different operators in the sector and the needs of their customers. The Secretary of State and Scottish Ministers' High Level Output Specifications (HLOSs) will also play an important part in outlining the Government's priorities for freight in the next control period.

We recognise that the requirements of different freight end-customers are highly varied in different sub-sectors (for instance just-in-time product distribution, supply of the energy industry and aggregates traffic). The freight train operators (represented by Peter Maybury, Chairman of the Freightliner Group and freight-lead for the Rail Delivery Group) attended our board meeting in January 2015.

We welcome the freight operators' work to set out and quantify the value of rail freight to the economy – including broader impacts such as environmental and safety benefits, which will feed into ORR's preparation for the PR18 review including our advice to Secretary of

State and Scottish Ministers' HLOSs. We also welcome the work the industry itself has done in conjunction with ORR, following our discussions on the issues in PR13, to resolve a number of long-standing issues in the way freight operators use the network to improve the use of scarce capacity, and to avoid unnecessary impacts on the reliability of passenger and other freight train services and to improve whole industry costs and efficiency. We have seen a step-change in the quality of engagement on these difficult issues since PR13.

Also, following a successful event to promote dialogue with freight customers (i.e. the customers of the rail freight operators) in October 2014, we began the process of establishing a freight customer panel to represent the sector's interests in our on-going work programmes and ensure that the concerns of the sector are fully understood. The panel will have its first meeting on 4th March 2015.

Secondly, on the performance of Network Rail, the Committee stated:

“23. While it is essential for Network Rail to deliver value for money for the taxpayer, efficiency savings cannot put the safety and reliability of the rail network at risk. The ORR should consider whether the disruption over Christmas and the New Year suggests that Network Rail is unable to deliver the enhancements programme planned for CP5, alongside a safety-focused, high-performing railway each and every day. In the light of the change of status of Network Rail the ORR must reconsider whether fining a public sector body remains an acceptable means for the regulator to exert control. (Paragraph 80)”

Network Rail delivered more than 98% of the complex engineering works planned for the Christmas and New Year period on time, carrying out work on 300 separate projects across 2,000 worksites. It generally has a good record for handing back access to its network following work on time.

In our Q2 Monitor,² we expressed concerns regarding Network Rail's progress towards successfully delivering the enhancements projects in CP5. We identified weaknesses in Network Rail's ability to deliver projects on time, and in how it manages the complex portfolio of projects it is expected to deliver in CP5. We requested an improvement plan and received this in January. We are currently considering the actions needed to ensure Network Rail strengthens its ability to deliver the programme.

The ability to levy financial penalties is one of a range of options available to the regulator in the event that a license holder is found to have breached conditions in its license. In some circumstances it may be appropriate to require the licensee to put in place a recovery plan which then becomes enforceable. Most recently, when ORR found Network Rail in breach of its license, it chose not to take any regulatory action because Network Rail accepted all of ORR's recommendations and agreed that they form part of the reasonable requirements it is expected to deliver (if necessary enabling the regulator to take enforcement action in the future). Reparations are sometimes an alternative to levying

² The Network Rail Monitor is part of how we hold Network Rail to account. It sets out how we think Network Rail is doing in delivering its obligations to its customers and funders, and highlights any areas of concern. See: <http://orr.gov.uk/publications/reports/network-rail-monitor>

financial penalties, for example, as a result of missing its funded obligations, and to address issues which disrupted services for passengers, we required the Network Rail to commit extra funds (£25m) to improve the resilience of the rail network in London and the South East.

ORR is currently conducting a review of its enforcement policy and expects to publish its revised policy by the autumn.

Finally, in their conclusion, the Committee stated:

27. To maximise the benefits of the increased spending it should be clear how it fits into a longer-term strategic vision for the railways. While the control periods are a useful management tool, they need to be matched by the publication of a long-term plan, which brings together plans for franchising, rolling stock and enhancements work, and considers the rail network as a whole. Connectivity between the high speed and classic network should be prioritised, as should links to ports and airports. This plan should be linked to an "outturn statement" for each control period, helping to track spending, provide greater transparency around benefits realisation. This will strengthen the accountability of Network Rail and the ORR to Government and Parliament, as it will be clear if projected outcomes have materialised. Given the concerns we have expressed about Network Rail's capacity to deliver the CP5 programme, it is vital for passengers and taxpayers that it is held to account in this way. (Paragraph 86)

We agree that having a clear longer-term strategic vision is essential for a long-term asset like the railways. Through the five-year control period process, ORR aims to work with industry and government to place each control period within a long-term vision for GB rail, which takes account of government and industry plans for franchised services, freight and rolling stock and enhancements work. Alongside our Final Determination for CP5, we also published our Long Term Regulatory Statement, setting out opportunities and challenges for the railway, which also considers how incentives can be better aligned across the whole industry and supply chain. A major theme, for instance, of CP6 will likely be the implications of HS2 for our regulation of the classic rail network, as we seek to make sure that passengers and freight receive the full benefits.

ORR holds Network Rail accountable in each control period for the delivery of the outputs that have been specified and funded, and does so transparently and publicly. At the end of CP4, we published how Network Rail has performed against their regulated outputs, for both England and Wales and Scotland in our regulatory Monitors.³ We will continue to report to Parliament and the public on Network Rail's performance throughout CP5, so that they can be held to account for delivery of the outputs that the public and passengers pay for.

³ <http://orr.gov.uk/what-and-how-we-regulate/regulation-of-network-rail/monitoring-performance/network-rail-monitor>