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Ref: PR13\NR Sch8 CP5 Payment Rates

11 June 2013

Dear Joel,

**Schedule 8 Compensation Payment Rates in CP5**

This response is sent on behalf of both East Midlands Trains (EMT) and Stagecoach South Western Trains (SSWT). The comments below are based on Network Rail's consultation letter on Schedule 8 payment rates for London and South East commuting services and the recent Network Rail workshop that East Midlands Trains (EMT) attended on 31<sup>st</sup> May 2013.

Please note that ATOC has responded on this consultation and both EMT and SSWT support the views expressed within ATOC's response.

First of all, we acknowledge the importance of setting the Schedule 8 payment rates accurately to reflect the impact of performance on farebox revenue because it provides TOCs and Network Rail with the appropriate level of financial incentives to reduce disruption to services. The Network Rail payment rates have not been updated for 8 years, as previously a recalibration of payment rates was carried out by AEA Technology in 2005. Thus, it is necessary to update the rates so that it provides a realistic reflection of the impact of performance on revenue.

The industry needs to agree a consensus on the impact of performance on revenue. The process that the Industry Group and ORR agreed to be used to calculate the GJT elasticities and delay multipliers was an appropriate one to achieve such a consensus, i.e. independent experts to be commissioned to review all the available evidence and to provide their initial recommendations. Their initial recommendations would be subject to challenge by a steering group consisting of both Network Rail and TOC subject experts, and the final recommendations would take into account the challenges from steering group members, including Network Rail.

We feel that the process for this consultation on alternative Schedule 8 payment rates for particular services is one sided and lacks impartiality given Network Rail's financial interest in the outcome of the process. We believe that ORR must become more engaged in the process and resolve the issue.

With reference to Network Rail's counter proposal, we have the following comments:

- Network Rail's high level 'back-casting' analysis is based on just one back-cast and Network Rail has used an element of judgment to justify their proposal which does not explicitly consider all factors.
- The back-cast is based on one exceptional event i.e. aftermath of Hatfield Accident. Whilst this incident had significant impacts on performance for a significant period of time, if passengers acknowledged it as an exceptional event, it might have lessened its impact on their expectations for long term performance.
- Based on the analysis of this exceptional event of Hatfield Accident only, Network Rail states that the impact of performance on total London commuting has not been as high as implied by the latest elasticities. However, it has not made clear whether this is valid for individual train operators, where performance has varied between neighbouring train operating companies. Some commuters have the option of switching TOCs in response to poor performance without having to move house. For instance, customers currently driving to Wellingborough for EMT services could drive to Northampton if EMT's performance became significantly worse than London Midland's. Essentially, we must bear in mind that PDFH elasticities relate to demand for individual flows, not total demand.
- The argument about long run elasticities is invalid assuming that poor performance will only ever be for short periods. This assumption is simply inadequate. If performance was poor for the whole of the five years of CP5, the long run elasticities would be appropriate.
- Network Rail's theory on the effect of crowding on demand is debatable. The extent to which crowding constrains demand growth may decrease in future with key enhancement schemes, such as Thamelink and Crossrail, which will provide significant increases in capacity. With the extra capacity, demand will be able to increase in line with the elasticities.

Having evaluated Network Rail's contention on the PDFH parameters, we are not confident that Network Rail's counter proposal is much more convincing than the recommendations

in the PDFH 5.1. Although there is no 'right' or 'wrong' answer in this matter, works carried out by the PDFH and the consultants are likely to be more accurate because they are based on accumulated evidence as well as an overall review of all the available studies on this subject. In conclusion, a comprehensive review has been conducted by the independent consultants to form the PDFH v5.1 update and it is an extensive review which for the first time includes evidence on directly estimated reliability elasticities.

Furthermore, if ORR accepts Network Rail's argument that there is insufficient evidence to change from 2005 values for London commuting GJT elasticities and Delay Multipliers, we believe that there should be a complete reversion to these values, i.e. Delay Multiplier for Long Distance High Speed (LDHS) season tickets should be 4.56, not 2.5.

If you would like to discuss this in further detail, please feel free to contact me.

Yours sincerely,

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