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2 March 2011

To: All those listed at **Annex C**

Dear Colleagues

TRACK ACCESS RIGHTS ON THE WEST COAST MAIN LINE

Purpose

1. The purpose of this letter is to:
 - (a) let you know of the decision that we are now minded to take (the proposed decision) on the key aspects of the various applications made under the Railways Act 1993 (the Act) for new or amended access rights on the West Coast Main Line (WCML);
 - (b) explain the detail and reasons behind our proposed decision and the factors that we took into account in reaching it (see **Annex A**); and
 - (c) set out the next steps, process and timescales.
2. As a result of this proposed decision, bidders for the West Coast franchise will have far greater certainty of their ability to get access to the network than has normally been the case at this stage of a franchise competition. The duration of the access rights requested, and the amount of change anticipated both to the network and to the service structure, have led us to agree to approve less highly specified rights. We believe that this will provide a sound basis for the new franchise to take forward new ideas to improve passenger services, and to provide greater value for money to the taxpayer. At the same time, it will be easier to develop the timetable to enable the introduction of additional services in due course.
3. This decision has been reached after a significant amount of work and following an open and transparent process, which we established in May 2010, involving all affected and interested stakeholders. We have given all stakeholders opportunities to put forward their views and would like to take the opportunity to thank all those who have contributed throughout the course of this process, particularly for the detailed and constructive representations we have received over the last few months.

Introduction

4. Early in 2010, as part of the preparations for the re-letting of the inter city west coast franchise (ICWC) we discussed the issue of track access rights with the Department for Transport (DfT). DfT's preferred position was to put access rights in place for the new franchise before tendering started – it saw this as a means of reducing perceived risk and improving franchise value. At the time, we said that the maximum period for which we could approve rights for a franchised operator without any firm investment plans was ten years – both for policy and legal reasons. Subsequently, we initiated a process which involved inviting those with service proposals (or aspirations for them) for the WCML to tell us of them and then, as part of an organised process, to make formal access applications - see paragraphs 3 & 4 of **Annex A** for further information.

The proposed decision

5. Whilst this work has demonstrated that there is some capacity on WCML, which would allow for a limited number of additional services that would not:

- (a) impact upon existing interests, both passenger and freight; and
- (b) require significant changes to adjoining and connected routes;

we consider that the proposals received can only be accommodated if there is a complete recast of the timetable. Having regard to the many other constraining influences and unknowns that apply, particularly in relation to the North West electrification project, all of which are explained in some detail below and in the attached **Annex A**, such a recast will have to be carried out in stages starting from December 2013 on completion of the first stage of the infrastructure enhancement through to December 2016 when the project is due to be completed.

6. The WCML is an integral and vital part of Great Britain's transport system. It is therefore important that optimum use is made of it. This is why the aim of our proposed decision is to:

- (a) ensure the most efficient use of available capacity;
- (b) maintain, as a minimum, a level of franchised services based on the existing one;
- (c) be of most benefit to all rail users, whether passenger or freight related; and
- (d) be of maximum benefit to the taxpayer and ultimately the economy.

We strongly believe that it is not in the best interests of the industry and its customers for us to take decisions which could lock in an inefficient use of capacity on such a significant part of the network without further timetabling work being done.

7. This is why we charge Network Rail with the task of leading the industry in establishing a staged programme of work to develop an amended timetable, the first iteration of which will be ready from December 2013, i.e., after the first stage of the north west electrification project is completed. It is vital that the industry takes the opportunity to plan ahead and to establish a sensible strategy for the future against the background of all the constraining factors. Such an approach should not only ensure the best outcome for

itself and funders, but also for freight and passenger users. With this in mind, it is important that Network Rail includes both passenger and freight representative bodies in the discussions at an early stage. What we are expecting from Network Rail and the industry is discussed in more detail in paragraphs 78 and 83 of **Annex A**.

8. In arriving at this decision we have had regard to the views of stakeholders about the current timetable. Whilst there is general consensus that the current timetable is working successfully there is concern that it contains some anomalies, that it is not making best use of capacity and that it is not necessarily providing customers with what they want. It is clear from the representations received that there is significant demand for changes to free up capacity and serve other destinations on or via the route. The only way this can be achieved is through a gradual recast of the timetable as service and infrastructure enhancements come into play.

9. Accordingly, we have concluded that the most sensible and pragmatic way forward at this stage, pending further timetabling work, is to ensure the continuation of the existing level of access rights by approving a 10 year contract for the Department of Transport (DfT) (on behalf of the new franchisee). The access rights will be less highly specified than the current franchise so that there is scope and flexibility for the incoming franchisee to make best use of the capacity allocated and the resources available to it as well as enabling it to develop new and innovative ideas to improve the service and the overall customer experience.

10. For the immediate future, this decision means that there will continue to be a full passenger service on WCML from 1 April 2012 and that passengers and freight users will not be disadvantaged.

11. In summary, we are therefore minded to conclude that we should:

- (a) **approve rights for DfT** (on behalf of the new franchisee) which maintain the current level of access rights to ensure continuation of the existing West Coast services, but with considerably less contractual specification than currently exists, and for which it applied, to allow more flexibility, i.e.:
 - (i) on the basis of a daily quantum of train paths, with a minimum level of specification related to the core franchise requirements (see paragraphs 59 to 60 of **Annex A**), until the Principal Change Date in December 2013; and
 - (ii) on the basis of a daily quantum of train paths only from December 2013 for the remainder of the 10 year track access contract (until December 2022);
- (b) **approve rights for DfT** to extend some existing hourly Lancaster services on to Glasgow. These will not affect overall WCML capacity and will enable the incoming franchisee to make better use of all its available WCML rolling stock;
- (c) **refuse DfT's** application for the additional 10 services. In any event there appear to be significant operational conflicts with existing contractual access rights, which would need to be resolved had we been minded to approve the rights;
- (d) **refuse the Grand Central Railway Company Limited** (Grand Central) application to run services between Euston and Blackpool, which in any event fails our not primarily abstractive test;

- (e) **refuse the Alliance Rail Holdings Ltd** (Alliance) application for services between Euston and Leeds/Bradford interchange/Blackpool and Carlisle. In any event, Alliance was not in a position to provide the information and data required within the established timescales for us to assess its application in time. Even though Alliance submitted a detailed submission in support of its application on 1 February 2011, we were asked not to put it in the public domain for reasons of commercial confidentiality. We will be discussing with Alliance separately how we might take any revised application forward;
- (f) **approve the London & Birmingham Railway Limited** (London Midland) 21st supplemental agreement subject to a satisfactory timetabling solution being found;
- (g) **refuse the London & Birmingham Railway Limited** 22nd supplemental agreement; and
- (h) **commission Network Rail** to establish a WCML timetable project working group to develop an amended timetable, initially from December 2013.

12. Overall, we believe that our proposed decision represents a balance between creating greater certainty and flexibility for the industry (particularly for the ICWC franchise) and providing Network Rail greater long term flexibility to make better use of capacity as circumstances change. At the same time it will allow greater flexibility for some open access competition. We consider this proposed decision is not only the right one given all the circumstances, but is also:

- (a) in line with our statutory duties and published policies, including our policy on open access competition, as set out in our criteria and procedures¹;
- (b) in the public interest, providing the best outcome for passengers and other users and better value to the taxpayer;
- (c) the most sensible way of providing for best use of capacity; and
- (d) one that ensures Network Rail's ability to make best use of available capacity is not unduly restricted.

Future applications

13. This proposed decision does not stop any operator from submitting an application to make use of the limited amount of spare capacity available in the interim period up to December 2013. This includes any proposals to use 110mph rolling stock. Beyond 2013, more capacity may be available with timetable revisions which could be used by either franchised or open access operators, subject to our policies for the approval of access rights.

14. Our approval of less highly specified access rights will reduce the need for the incoming franchisee to seek formal amendment of those rights before service changes can

¹ <http://www.rail-reg.gov.uk/upload/pdf/408.pdf>.

be agreed with Network Rail. Nevertheless, we anticipate that the franchisee will wish to develop proposals for additional services, particularly given the need to make best use of all its rolling stock. As soon as it knows what it wants to do, it will be able to apply for the further access rights needed for its services.

Scope and duration of rights

15. As already explained, we are minded to approve rights with considerably less specification than currently exists and for which DfT applied on the core WCML routes. We did consider approving some services to run on a contingent basis only, but concluded that we should not do so, because of the additional risk and uncertainty this would create for those concerned. The proposed decision also has significant implications for capacity north of Crewe. It will affect other operators, especially freight, and the implications of these services need to be considered in conjunction with the first stage of North West electrification. We expect this to be taken into account by Network Rail and the industry as part of its work on the development of the timetable.

16. However, given all the factors outlined above, particularly in relation to the possibilities for more efficient and effective use of capacity arising from the proposed infrastructure and service enhancements we believe that it is appropriate to approve a ten year track access contract, but with specified rights running only until December 2013. From then until the end of the contract, the rights will be based on a daily quantum of rights only, subject to any subsequent applications that we may approve.

17. A 10 year contract is in line with European policy and our own published policy on the approval of long term track access contracts. It will provide both DfT and prospective bidders for the West Coast franchise with a much higher level of certainty than has ever existed before at this stage in the refranchising process (incoming franchisees usually inherit existing contracts that have been extended by up to 18 months). The less highly specified rights will allow considerably more flexibility to make changes to services through the timetabling process set out in Part D of the Network Code. This provides substantial protections for the train operator, including a right of appeal if it believes that Network Rail has made inappropriate timetabling decisions.

18. Furthermore, by the end of 2013, we expect the position on WCML to be clearer with:

- (a) the first stage of the North West electrification project complete (see paragraph 69 of **Annex A**);
- (b) operators, including the new franchisee, having had an opportunity to develop their proposals further; and
- (c) Network Rail, working with the industry, having established a programme of work to produce revised timetables starting with one in December 2013.

London Midland

19. London Midland submitted two applications. The first (the 21st Supplemental), we are content to approve, subject to Network Rail being able to timetable the changes proposed. We consider this to be more of a "business as usual" proposal and something that can and should be dealt with as part of the day-to-day timetabling process, unlike the

other applications covered by this proposed decision. Accordingly, we would be content to approve these rights for exercise within the 2012 timetable year.

20. However, we have refused the second application (22nd supplemental) because we believe that it impacts upon the core WCML route and is the subject of decisions that still need to be taken by Government in relation to future franchising requirements.

Next steps

21. As we stated in our letter of 1 December 2010, we would like to be in a position to approve the new track access rights as soon as possible after the publication of our proposed decision and if possible by the end of March 2011. The precise timing of this will depend on the extent to which unforeseen matters arise.

22. In parallel with this work we will hold early discussions with Network Rail to agree a programme of work to establish a WCML timetable project working group that is ready to start work as soon as the new franchisee is announced.

Yours sincerely,

A handwritten signature in black ink that reads 'Brian Kogan'.

Brian Kogan

Our consideration

The applications

1. We received and considered five relevant potentially competing track access applications under the Railways Act 1993 (the Act) for the rights necessary to operate the following services:

(a) **Alliance**, under section 17 of the Act, sought rights to introduce the following passenger services from December 2013:

- (i) London Euston to Leeds via Crewe, Guide Bridge and Dewsbury;
- (ii) London Euston to Bradford Interchange via Newton-le-Willows and Rochdale;
- (iii) London Euston to Blackpool North; and
- (iv) London Euston to Carlisle via Barrow-in-Furness and the Cumbrian Coast.

The services, which Alliance proposed to start in December 2013, would be operated by newly built 125 mph dual mode tilting rolling stock

(b) **DfT**, under section 17 of the Act on behalf of the new franchisee, for a contract to succeed the existing contract held by the incumbent operator, West Coast Trains Ltd (WCT) from 1 April 2012, and including rights to operate all the trains that WCT operates currently. In addition, the contract would provide rights for:

- (i) the operation of an additional 10 services per day (7 on Sundays) in each direction between London Euston and north-west England divided up into five services terminating at Lancaster and five services to Blackpool North on alternate hours;
- (ii) the extension of three northbound and two southbound trains (Monday to Friday) that operate currently between London Euston and Lancaster to operate between London Euston and Glasgow Central, bringing the number of trains per weekday between these two stations to 16 in each direction; and
- (iii) London Euston – Glasgow services to run non-stop to Preston with the additional Blackpool and Lancaster services serving the Warrington and Wigan stops removed from the Glasgow services.

The planned start date for these services is May 2012 and they would be operated by Pendolinos and Voyagers (until 2016 after which the electrification of the Preston to Blackpool line would allow the use of Pendolinos to Blackpool).

(c) **Grand Central**, under section 17 of the Act, sought rights to run four trains per day between London Euston and Blackpool North via Preston and one train per day between London Euston and Hartford, commencing from May 2012. Grand Central

proposed to use Class 67 locomotives with 5 Mk3 coaches until 2016 when electrification of the line from Preston to Blackpool would enable them to run Class 90 locomotives with 6 MK3 coaches, in a timetable based on 110mph running

(d) **London Midland**

- (i) Under section 22A of the Act, (the 21st supplemental) sought rights to amend its existing track access contract from May 2012, to operate additional services between Northampton and Crewe, together with a small number of additional Passenger Train Slots between Euston and Northampton.
- (ii) Under section 22A of the Act, (the 22nd supplemental) sought rights to amend its existing track access contract from May 2012, to:
 - (1) Divert an existing hourly Birmingham New Street to Liverpool service to Preston on weekdays and Saturdays;
 - (2) extend the existing hourly LM Euston to Crewe service to Liverpool Lime Street on weekdays and Saturdays; and
 - (3) also operate the extended Euston to Crewe service on to Liverpool Lime Street on Sundays.

2. Copies of the applications can be found on our website².

Background

3. In anticipation of the expiry of both the existing West Coast franchise and the associated track access contract held by WCT on 1 April 2012, we wrote to the industry on 14 May 2010 seeking to identify all operators' aspirations, both passenger and freight, for new or amended access rights on the WCML and to put in place a process for considering them. This was so that, in advance of receiving any formal applications, we would be able to consider the relevant questions of access allocation in the full knowledge of all operators' aspirations. We also thought it would help us to make decisions on future capacity allocation on this significant part of the national network. We subsequently received some 20 aspirations. To inform our consideration further we then wrote to Network Rail on 30 June 2010, asking it to produce a capacity and performance report which analysed the various aspirations for access to the WCML against the available capacity. This was received in August 2010. Interested stakeholders, including the applicants, received appropriate sections of the report together with a copy of a prototype timetable. We will discuss with Network Rail the possibility of publishing a suitably redacted version of the report on our website.

4. We subsequently received five applications as set out above. In line with our usual practice these were made available on our website³ with an industry consultation open until 20 December, but then extended until 7 January 2011 because of the volume of representations received. We have decided not to publish the representations received on

² <http://www.rail-reg.gov.uk/server/show/nav.2437>.

³ <http://www.rail-reg.gov.uk/server/show/category.1825>.

the applications partly for reasons of commercial confidentiality, but also because of the impracticalities of posting what have been extensive and detailed responses⁴.

5. Nevertheless, they have been shared with Network Rail and the applicants and we have provided a list (at **Annex B**) of the organisations that made representations, together with a summary of the main points they raised. Even so, the overall volume and detail of responses received, together with the issues of confidentiality, means this letter cannot deal with every individual point raised. However, we can assure stakeholders that all issues raised with us have been considered in reaching this decision and we have tried to respond to all the key points in this document. Furthermore, Network Rail should have regard to them through the timetabling work we are asking them to carry out. There is also of course an onus on stakeholders to make sure they participate fully and cooperate with Network Rail in delivering this workstream.

6. In addition to those responses received in response to our statutory consultation we also received a number of representations from other individuals and organisations, including MPs and local authorities, relating to their particular interests and issues. We have also had regard to these in making our final decision.

Process

7. In line with our criteria and procedures for the approval of track access contracts (C&Ps)⁵, we have consulted on applications as they have arrived. We also wrote to the applicants and industry stakeholders throughout to keep them informed of the process and progress, and copies of these letters, together with the various applications, are available on our website⁶. However, as we explained in our letter of 14 May 2010 establishing this process, we have not published details of the aspirations. We said that we would wait until after the completion of the process and publish all relevant documentation at the same time as we publish our decision. This remains our intention although it is still the case that much of the information received from aspirants is confidential and we leave it to stakeholders to make sure that they make their case through the project working group.

8. We also considered, again in line with our C&Ps, whether to hold a hearing. We have decided that given the scope and extent of the information provided by all interested stakeholders, the nature of our decision and the reasons for it, it is unlikely that anything would be gained from doing so.

9. In considering each application we have taken into account:

- (a) **our statutory duties**, most of which are set out in section 4 of the Act. These duties are not in any order of priority, and, as for all applications, it is for us to decide how to balance them. We believe that the following section 4 duties are of particular relevance in this case:

⁴ Throughout this proposed decision we make clear what information is and will be made available on our website.

⁵ <http://www.rail-reg.gov.uk/server/show/nav.2409>.

⁶ <http://www.rail-reg.gov.uk/server/show/nav.2437>.

- (i) section 4(1)(a) - otherwise to protect the interests of users of railway services;
- (ii) section 4(1)(b) - to promote the use of the railway network for the carriage of passengers and goods, and the development of that railway network, to the greatest extent that [ORR] considers economically practicable;
- (iii) section 4(1)(d) – to promote competition in the provision of railway services for the benefit of users of railway services;
- (iv) section 4(1)(g) - to enable persons providing railway services to plan the future of their businesses with a reasonable degree of assurance;
- (v) section 4(1)(zb) - to promote improvements in railway service performance;
- (vi) section 4(3)(a) – to take into account the need to protect all persons from dangers arising from the operation of railways;
- (vii) section 4(5)(a) – to have regard to any general guidance given to it by the Secretary of State about railway services or other matters relating to railways;
- (viii) section 4(5)(c) – to have regard to the funds available to the Secretary of State for the purposes of his functions in relation to railways and railway services; and
- (ix) sections 4(5)(aa) and 4(5)(ab) – to have regard to any general guidance given to [ORR] by the Scottish Ministers about railway services wholly or partly in Scotland or about other matters in or as regards Scotland that relate to railways, and to give appropriate weight in doing so to the extent to which that guidance relates to matters in respect of which expenditure is to be or has been incurred by the Scottish Ministers.

We have considered all our duties in arriving at our proposed decision. In some cases there are tensions between different duties, but we are content that this proposed decision represents the appropriate balance between all our statutory duties. In doing so we have recognised the importance of giving bidders for the ICWC franchise a high level of certainty, particularly in relation to the degree of competition they will face. We believe that we have achieved that balance by ensuring that the incoming franchisee has a package of access rights that will enable it, as a minimum, to operate the existing level of services as well as scope to develop them. This effectively leaves a limited amount of capacity available for additional services, including those proposed by open access operators. Any such applications would of course have to comply with our policy, including the need to satisfy our 'not primarily abstractive test', i.e. they should complement existing franchise services and not have the primary effect of taking business and revenue from the franchise;

- (b) **relevant legislation**, in addition to the Act we have also had regard to the Railways Infrastructure (Access and Management) Regulations 2005 (the Regulations), which provide that various conditions need to be satisfied to justify framework agreements (track access contracts) of longer than five years;

- (c) **our published policies** - in this case, our C&Ps for the approval of track access contracts in place at the time of receipt of the relevant applications, including our specific policies on long term track access contracts and on-rail competition;
- (d) **Government policy** – we have had regard to the Government’s review of franchising and believe that this decision is consistent with its January policy statement on franchising. We have also been mindful of Sir Roy McNulty’s value for money study and wider industry reform. Whilst we will have to wait for the outcome of this work, and any subsequent decisions Government may take, we have for some time now had it in mind to review our approach to on-rail competition, particularly in terms of the structure of charges and the level of charges paid by open access operators. We expect to take this forward as part of the next periodic review; and
- (e) **established route utilisation strategies (RUSs)**, relating to and impacting upon WCML. We concluded that our proposed decision is not inconsistent with them. However, many of the established RUSs have been in place for some time now, including for example those relating to the North West and freight, and as a result they do not necessarily reflect current requirements. In some cases they are in the process of being replaced. For example, drafts of the new Northern and WCML RUSs, which are out to consultation, were published towards the end of last year. These are considered in more detail below (paragraphs 61 to 67). The issue of freight capacity is also discussed below (paragraphs 75 to 77).

10. To inform further our consideration of the aspirations received and the subsequent applications, we asked Network Rail to conduct an assessment of the capacity and performance implications. As part of this work, Network Rail met all interested stakeholders. This resulted in a report and a ‘prototype’ timetable which we received in October 2010. We invited the applicants to make representations to us on the relevant sections of Network Rail’s report. The findings are discussed in detail below (paragraphs 16 to 28) and a copy of the report suitably redacted for reasons of commercial confidentiality will be posted on our website in due course.

11. We also commissioned MVA Consultants (MVA) to carry out an economic assessment of the applications. This included discussions with Alliance, DfT and Grand Central. MVA were not asked to assess the London Midland applications because we did not consider that they impacted upon the immediate capacity issues relating to the core WCML route. MVA’s draft final report was received in January 2011.

12. Even though our decision to refuse nearly all the applications for additional services was ultimately dictated by other reasons, we had already commissioned this work as part of the process. Having done so we thought it sensible to share MVA’s report with the three operators analysed. Again given the nature of, and reasons for our decision, we did not see the need to discuss the report’s findings, which are again set out below (paragraphs 30 to 55), with the applicants in advance of issuing our proposed decision. We shall make it available (with redactions for reasons of confidentiality) on our website in due course. We will also be providing Alliance, DfT and Grand Central with individually redacted versions and we will be arranging meetings with them to discuss the findings.

Key issues

13. In arriving at this proposed decision, we considered:
- (a) the capacity and performance work that Network Rail has carried out on our behalf;
 - (b) the applications received for capacity on WCML, together with all comments and representations made by applicants and stakeholders;
 - (c) the scope of the information available from applicants and all other aspirants;
 - (d) the internal review deemed necessary based on the responses received; and
 - (e) any further information and/or discussions we considered necessary against the wider background of what we know about the likely development of services on the WCML. This included having regard to the various constraints and the considerable level of uncertainty as discussed below that exist in certain areas and which currently affect and influence the future shape of capacity availability on the WCML.
14. It is evident from the above that there is a consensus amongst interested stakeholders that additional capacity is available on WCML and that there is scope to serve a number of extra destinations to and from London. This view is supported by both our own consideration of the operational and performance issues and by the economic and analytical modelling work we commissioned from MVA. On the basis of the existing timetable, our view is that there is capacity on WCML to allow for a limited number of additional services without impacting upon existing interests, both passenger and freight, and without requiring significant changes to adjoining and connected routes. However, the proposals contained within the applications, and indeed within many of the other aspirations, received can only be accommodated if there is a major recast of the timetable. Even then this could require the agreement of some operators, particularly freight operators, to make changes to their existing rights.
15. It is also evident that at the present time there is a large number of disparate constraints and uncertainties across the industry, which we must consider when making decisions that are in the public interest, best meet the needs of passengers and other users and that ensure the most efficient and effective use of the capacity available. These issues are discussed in more detail below, but it is worth repeating why we established the WCML capacity process back in May 2010, namely the need to ensure:
- (a) continuity of service from 1 April 2012 when both the existing west coast franchise and track access contract expire;
 - (b) sufficient comfort and flexibility for the Department for Transport (DfT) and its franchising process and prospective bidders whilst maintaining a balanced approach to existing users, including freight operators; and
 - (c) that there was scope for on rail competition on the WCML route by providing operators, including open access operators both passenger and freight, with an opportunity to let us know their views and aspirations.

16. Therefore, what follows is a summary of the key issues that were raised throughout the process, including in response to the capacity and performance assessments and the economic assessment, and the conclusions we reached on them.

Network Rail's capacity and performance report

17. Network Rail was remitted to produce a report summarising its assessment of capacity and performance, taking account of any safety considerations, and analysing the various aspirations, including all existing rights, against the available capacity on the West Coast Main Line. In commissioning this work it was necessary to establish a starting point for the work and we took the decision that this should be the current WCML timetable (effectively the December 2010 timetable offer) with a working assumption that roughly the existing level of franchised services would operate. Whilst we were aware that there were shortcomings within the timetable, it was our view (and remains so) that it is working well. Given the extensive resource and financial investment put into its development over the last 2 – 3 years, we did not consider that it would be in the interests of the industry, the travelling public, or other end users to start from a blank sheet of paper. The timetable is not of course our responsibility and as explained below we firmly believe that it is for the industry to work together, under Network Rail's leadership as the owner of the timetable, to review and develop it.

18. A copy of the remit letter to Network Rail is available from our website, but briefly it was asked to:

- (a) say how the timetable could be adapted to accommodate the aspirations received;
- (b) establish what the capacity trade offs would be; and
- (c) identify the conflicts.

19. We also asked that the report include a prototype timetable that was optimised to accommodate existing services, including freight, and as many aspirations as possible, and which maintained as far as possible the existing level and frequency of services, journey times and calling patterns. This in turn would form the basis for our analytical economic work necessary to establish which paths were the least valuable, particularly in terms of revenue.

20. In preparing its report, Network Rail was asked to adopt a three stage process, as follows:

- (a) the first stage, which commenced on 28 June 2010, analysed all the aspirations received to establish which ones were realistic and achievable in terms of reaching their proposed destinations – there was little point taking forward an aspiration if it conflicted with existing access rights both on WCML and on adjoining (i.e., non WCML) parts of the network. After completion of this stage, aspirants were informed by Network Rail whether or not their proposals worked, and/or whether they were “business as usual” and/or not relevant to the purpose of the exercise. Network Rail provided reasons and evidence for its conclusion and gave the operator an opportunity to discuss it with them;
- (b) the second stage, which started on 5 July 2010, considered all the remaining aspirations and Network Rail carried out an ‘optioneering’ exercise to see what the

capacity trade offs were, for example, journey times, service spacing and calling patterns. Network Rail produced a number of scenarios on which our views were sought as to which ones we wanted it to pursue. A summary of the options and our revised remit to Network Rail of 19 August 2010 is available from our website; and

- (c) the third stage, which began on 9 August 2010, led to the production of a prototype timetable based on the agreed option(s) and ultimately the final report, which was received on 26 October 2010.

Capacity

21. The overall conclusion from Network Rail's report was that whilst there is scope for one additional train each hour in both directions between Euston and Preston on the fast lines⁷, each path has timetabling conflicts primarily in the direction towards London Euston. Some were easy to resolve whilst others required further in-depth timetabling work to understand whether or not the conflict could be resolved. Finally, some could only be resolved by altering other operators' existing track access rights. Further in-depth timetabling work would also be required for the proposed extensions north of Preston.

22. Whilst Network Rail's capacity work provided a good starting position and one from which we were able to model the various aspirations received, all the applicants have different views of the best ways of using the available capacity. There were also concerns that the absence of a complete review of the WCML timetable might lead to ossification of the timetable.

23. As already indicated many of the consultees raised concerns about the potential impact of the applications on their existing services and capacity.

Performance

24. The overall conclusion from Network Rail's report was that the 'Up' path presents a real performance risk, with approximately 25% of the new proposed 'Up' services likely to experience some reactionary delay. The report recommended that further timetable work would have to be carried out to try to reduce this risk and concluded by stating that "the estimated impact - whilst tangible - does not appear to be sufficient enough to raise an objection to the path on performance grounds alone".

25. On network availability, the report confirmed that any off-peak timetabled changes proposed as part of this process would have negligible impact on maintenance activity although the point was made that any services operated later in the evening, or very early in the morning, might impinge on current agreed times within the Engineering Access Statement. The times that maintenance has access to the network must not be reduced as a result, as this could cause significant difficulty for infrastructure maintenance.

⁷ It is possible to operate two additional trains, as happens during the peaks, but the performance risk of, effectively, filling the Fast Lines from the start of the morning peak until after the end of the evening peak is considered to be too great, as the service would never recover from any perturbation.

26. As part of the WCML power supply upgrade project Network Rail also carried out a high level power supply study. This demonstrated that it is likely that the power supply could meet the needs of extra electric services, but the report recommended that, for it to be fully satisfied, Network Rail would want to test the assumptions around a 30 minute interval throughout the day to reflect a full timetable.

27. In terms of operations, on the WCML Fast Lines, Network Rail said that it would be better if:

- (a) the rolling stock used was capable of 125mph Enhanced Permissible Speed (EPS) running, thereby making the maximum use of the capacity available. Any rolling stock used which is not capable of running in 'tilt' mode, would be restricted to a reduced maximum speed of 110mph only; and
- (b) maximum use was made of the overhead line electrification (OLE) already in place on the route and utilise electric traction rolling stock wherever possible, because electric train operation generally allows for better acceleration.

The report also stressed the importance of carefully considering rolling stock turnarounds or layovers, assessing empty coaching stock moves and early agreement on pathing priority during disruption if a new operator was permitted to use this path.

28. A number of consultees also raised concerns about the potential impact of the applications on performance.

Safety

29. The overall conclusion from Network Rail's report was that there were no particular safety issues but noted that any increment in service provision is carefully monitored and captured through the Track Access application process. It also noted that any major increase in service frequency in the busiest hour would necessitate the undertaking of individual level crossing risk assessments. Finally, the report said that in the event of perturbation, Network Rail's operational safety risk increases when train paths are maximised, e.g. more trains affected by an incident and more disruption occurs.

Economic assessment

30. As explained above (paragraph 12), MVA's report is no longer directly relevant to our decision, but having carried it out we still feel that it is helpful to share it with the industry. It will also be helpful to those operators planning to make future applications.

31. We have a long standing policy of not approving rights to new competing services, including open access services, which are primarily abstractive of incumbents' revenue without compensating economic benefits beyond proposed or potential lower prices for existing customers. If an application passes this test and is also accepted against our other criteria for considering new track access rights (as set out in our C&Ps), then we would expect to approve the rights sought. The test considers whether the primary impact and intention of a new service would be to abstract revenue from incumbent operators without compensating benefits – if so, we would reject the application.

32. The not primarily abstractive test is a five stage test. The first four stages consist of estimating the revenue generation to abstraction ratio⁸ associated with the proposed services, and then refining the estimate. Stage 5 is a more qualitative assessment. We would not normally approve services with a revenue generation / abstraction ratio of less than 0.3⁹

33. We also stated that where there is a material trade off to be made in the use of capacity we would consider also the economic benefits of the various applications by carrying out cost/benefit analysis in line with DfT guidance¹⁰.

34. MVA were commissioned to assess the applications for using the additional paths, by forecasting the revenue generation to abstraction ratio and conducting a cost/benefit analysis. The results of this analysis are discussed below.

35. We asked MVA to assess the services proposed in the applications of the Department for Transport, Alliance and Grand Central. We did not ask MVA to assess the two London Midland applications because these did not relate to the same WCML fast line paths sought by the other applicants.

36. When we commissioned the consultancy study, we had yet to receive all the information from the applicants. As a pragmatic interim step, we asked MVA to make some working assumptions regarding certain missing parameters, such as operating costs. It subsequently emerged that the application we received from Alliance contained material omissions, so that we were unable to process the application. MVA's analysis for Alliance is therefore based on a number of assumptions.

37. MVA modelled the services as detailed in the relevant applications, with certain exceptions stated below. In each case the departure times of the services used the spare path identified in Network Rail's prototype timetable. Where applicants did not provide a detailed breakdown of journey times, the prototype timetable was used and where the proposed services had journey times and/or stopping patterns that differed from the prototype timetable, appropriate adjustments to journey times were made."

38. MVA's assessment of the Alliance bid was as far as possible based on its application as submitted. However, the Carlisle service was not included, as noted above, as it could not be accommodated in the timetable.

39. In its application, DfT argued that the operating costs should exclude rolling stock leasing costs because they were sunk costs. We considered that such an approach would be at odds with good appraisal practice, where rolling stock leasing costs are ordinarily assumed to represent the opportunity cost of deploying the rolling stock elsewhere. MVA therefore adjusted the operating cost estimates to include rolling stock leasing costs. However, whether this approach was correct clearly depends on the extent to which the

⁸ The revenue abstraction is the revenue lost to other incumbent services as a result of the proposed services.

⁹ Review of Access Policy – Final Conclusions , November 2010, paragraph 2.46

¹⁰ WebTAG, which is available from Department for Transport's website at www.dft.gov.uk/webtag/.

rolling stock could be used elsewhere, and in the event this did not affect the outcome of our assessment.

Revenue generation and abstraction

40. The results of our not primarily abstractive test are only relevant to the Grand Central and Alliance applications. This is because the DfT's application on behalf of a future franchisee involved assessing the impact of its plans to run additional services against the current franchised services and an operator cannot be said to abstract from itself.¹¹

41. MVA estimated that the services proposed by Grand Central produced a revenue generation to abstraction ratio of considerably less than 0.3. We consider the ratio to be too low, in the context of this application, for us to approve Grand Central's application.

42. As explained above, Alliance did not supply the business case information we needed in order to undertake the not primarily abstractive test. We were therefore unable to process its application.

43. However, since we had commissioned MVA on the basis that all parties would supply the necessary information, we considered it worthwhile, for indicative purposes, to estimate the revenue generation to abstraction ratios for the services proposed in the Alliance application. In order to do so MVA had to impose estimates regarding, for example, Alliance's costs and fare structures.

44. Under these assumptions, we found that the services proposed by Alliance that would run between London and Blackpool, Leeds and Bradford interchange would produce revenue generation to abstraction ratios that comfortably exceeded 0.3. Given the uncertainty surrounding the validity of the assumptions, these results are, at best, indicative.

45. Both Alliance and Grand Central have applied for services to run to Blackpool. Their applications differ in a number of respects. The key difference, however, that produced very different generation to abstraction ratios is the assumptions regarding fares. Grand Central proposed fares that were much lower than those that MVA assumed for Alliance, and this has resulted in a much lower generation to abstraction ratio for Grand Central's Blackpool services.

Cost/benefit analysis

46. MVA also carried out a cost/benefit analysis of each of the options, using the DfT's WebTAG transport appraisal methodology, to assess the relative benefits of each application in net present value terms. The appraisal covered the impacts of each application on:

¹¹ The circumstances in which we would apply the test to franchise operators is in any case much narrower than that for open access operators. This is set out in our Access Policy Conclusions at paragraph 2.41.

- (a) journey time savings and other user benefits including crowding benefits;
- (b) non user benefits;
- (c) net generated revenue;
- (d) operating costs.

47. The Grand Central application failed the not primarily abstractive test. Therefore, in line with our procedures, we would not normally consider its application further. However, since we had already commissioned MVA to conduct a cost/benefit analysis of the application, we asked them to proceed to do so. We found that the application produced positive net benefits over ten years for services planned to commence in 2012. As the services have failed the not primarily abstractive test, however, these findings are not relevant to our decision.

48. We were unable to process the Alliance application because it contained material omissions. However, since we had commissioned MVA on the basis that all parties would supply the necessary information, we considered it worthwhile, for indicative purposes, to estimate the net present value of the services proposed in the Alliance application.¹² In order to do so MVA had to impose estimates regarding, for example, Alliance's costs and fare structures.

49. All of the Alliance applications that we tested, using the assumptions we had imposed, resulted in clear negative net present values of benefits. In making a decision regarding alternative applications, we need to balance all of our Section 4 duties. If all other considerations were equal, however, under these assumptions, we would tend to favour alternative uses of capacity that delivered positive net benefits, over these proposed services.

50. Under these assumptions, the services proposed by DfT produced a small positive net present value over ten years. If the leasing costs were assumed to be sunk costs, and were therefore excluded from the operating costs,¹³ the net present value would be much larger.

51. While this test, when considered in isolation, suggests that the DfT application should be accepted, there are other considerations, including the feasibility of the proposals and their performance impacts that are relevant to the decision.

ORR's conclusions on economic analysis

52. Alliance's application contained material omissions, and we are therefore unable to approve its application and the results of the economic analysis are not relevant to Alliance.

¹² Excluding the Carlisle services, for reasons mentioned previously.

¹³ We did not consider it appropriate to consider the rolling stock as sunk costs, because we consider that there is sufficient opportunity for the stock to be used elsewhere.

53. We estimated that the services in Grand Central's application would produce a revenue generation abstraction ratio significantly below the 0.3. We considered this ratio is sufficiently low for the Grand Central application to fail the not primarily abstractive test.

54. We do not apply the not primarily abstractive test to the DfT application, because it relates to additional services for the incumbent operator.

55. The results of the cost benefit analysis showed that the DfT's application delivers a small positive net present value. This suggests that *in the absence of other considerations* we would be able to approve the DfT's application on economic grounds.

Franchises

56. DfT has of course only recently announced the shape and characteristics of the new ICWC franchise (on 19 January 2011), details of which can be found on the DfT website¹⁴. Briefly, the new franchise will begin operation from Sunday 1 April 2012 for a period of at least 14 years, aligned to the possible introduction of services on the proposed High Speed 2 line. DfT is currently consulting on the shape of the franchise and the key requirements it envisages including in the Invitation to Tender. The consultation closes on 21 April 2011.

57. The proposed specification is for a broadly similar level of service with the same number of trains as currently but with more flexibility for the incoming franchisee to develop the timetable with Network Rail to provide for a higher number of trains per day to certain destinations. DfT also expects franchisees to propose new and innovative ways of improving services and the passenger experience. In addition to the ICWC franchise, other franchises are due for retendering in 2013, which will have an impact on WCML, for example, the Trans Pennine Express and Northern franchises.

58. As well as the shape of future franchises, there is also uncertainty over the future shape of the industry. Sir Roy McNulty's rail value for money study and the associated review on the future structure of the industry is not expected to be completed until late spring. The report will then need to be considered by the Government with a view to it publishing its plans for wider industry reform towards the end of the year.

Conclusion

59. Given the above, we consider it appropriate that we approve access rights which are less highly specified than currently exist but which allow for delivery of the core franchise requirements. A key reason for this approach is to provide certainty by increasing flexibility for the new franchisee to develop a timetable that better meets the needs of customers and the taxpayer. It will also enable the franchisee to make better use of its rolling stock. We believe that such an approach is consistent with the Government's policy statement from January 2011 on rail franchising and is one that strikes the right balance between providing certainty and stability for the continued delivery of services on the WCML, and the ability of Network Rail to make full use of the capacity and capability of

¹⁴ <http://www.dft.gov.uk/pgr/rail/passenger/franchises/>.

its network for the benefit of passengers and users. As already noted above in the letter, the timetabling process in Part D of the Network Code provides substantial protections for the train operator, including a right of appeal against timetabling decisions.

60. We therefore propose to approve rights for DfT (on behalf of the new franchisee) to allow a continuation of the existing West Coast services, but with considerably less contractual specification than currently exists and for which it applied, i.e.:

- (a) on the basis of a daily quantum of train paths, with a minimum level of specification related to the core franchise requirements, until the Principal Change Date in December 2013; and
- (b) on the basis of a daily quantum of train paths only from December 2013 for the remainder of the track access contract (until December 2022);

The precise contractual specification will be discussed with DfT and Network Rail over the next month or so, but we do not believe that it needs to be over prescribed with detailed journey times. As the industry knows, the current WCML track access contract is very closely specified and provides Network Rail and the franchisee very little flexibility to manage the development of the timetable. This is unusual and we believe that if all operators had such tightly defined rights the Great Britain timetable would be completely ossified.

The Part D timetabling process contained in the Network Code provides the necessary protections to ensure that operators' specific requirements are met, within the overall capacity constraints. If an operator disagrees with a timetabling decision, it can appeal to the ADRC and ultimately to ORR. Network Rail should, subject to the Decision Criteria, schedule each train slot as close as it can to that requested in an Access Proposal. Nevertheless, we believe that the access rights will need to include:

- (a) core routes, which includes those required for diversionary and depot access,
- (b) the calling pattern – the intention is to ensure that as a minimum existing calling patterns are maintained;
- (c) a number of maximum journey times on some of the key routes, including those to and from Scotland. These must be achievable, not aspirational, if they are to be included in the contract.

Route utilisation strategy

61. RUSs seek to balance capacity, passenger & freight demand, operational performance and cost, to address the requirements of funders and stakeholders. For a number of years now Network Rail has been developing RUSs to cover the rail network, in conjunction with interested stakeholders. This is an ongoing activity and Network Rail takes account of RUS recommendations in carrying out its activities, including using them to help inform the availability of capacity on the network in developing the timetable.

62. As already explained above, in arriving at our proposed decision, we too must have regard to published RUSs, but in doing so we recognise that the position has moved on

since many of them were established. Network Rail has in hand a programme of work¹⁵ to review and update the RUSs and to create second generation RUSs covering larger areas where appropriate. There are of course a number of relevant RUSs, including those for the North West, Merseyside, Yorkshire and Humberside, Lancashire and Cumbria, East Coast Main Line, West Midlands and Chiltern, but we believe that two are of particular importance to any decision taken on WCML and these are discussed below.

WCML RUS

63. The WCML RUS has yet to be established. Although it was published in draft in December 2010, it will not be finalised until, we understand, summer 2012. Nevertheless, we have had regard to what it currently states albeit in draft form.

64. It concludes that, “*a continued programme of investment along the route is essential to deal with the expected increase in passenger numbers and to help create a climate that allows the economy to grow and flourish*” and sets out the priorities along the route over the next thirty years to meet the forecast demand. The RUS includes:

- (a) the continued development of a high speed line, initially between London and the West Midlands and then onwards to Manchester and beyond, to allow significant amounts of extra capacity on the existing fast lines to be utilised by commuter services at the south end of the route;
- (b) providing more off-peak long distance services and a number of additional fast commuter services during rush-hour, including the provision of additional capacity into London Euston throughout the day;
- (c) timetable changes for long distance services to provide an additional hourly service between London and the North West and potentially faster journeys between London and Scotland, including the provision of:
 - (i) additional capacity on services between Birmingham and Scotland; and
 - (ii) a regular hourly Manchester Airport to Scotland service with the potential to develop services from Liverpool to Edinburgh.
- (d) The potential:
 - (i) to link the East Midlands and towns in the Potteries with a direct rail service to Manchester Airport;
 - (ii) for an additional hourly service between Birmingham and Manchester; and
 - (iii) for an additional hourly service from London Euston, Milton Keynes Central and Crewe to Liverpool.

¹⁵ See Network Rail’s website at <http://www.networkrail.co.uk/asp/4449.aspx>.

Northern RUS

65. The second generation Northern RUS has yet to be established. Although it was published in draft in October 2010, we understand that it will not be finalised until spring 2012. Nevertheless, as with the draft WCML RUS we have had regard to what it currently states albeit in draft form.

66. As part of the second generation of RUSs, the Northern RUS does not have a strict geographic scope to consider but broadly covers the north of England, much of which has been considered in a number of geographic RUSs (e.g., those for the North West, East Coast Main Line, Merseyside, Yorkshire and Humber, and Lancashire and Cumbria). The strategies set out in those RUSs have been reviewed in the light of changing circumstances. The RUS forecasts, “*significantly more growth in rail usage over the next ten to twenty years*” and sets out the priorities for rail investment in the north of England for the next 20 years to meet the forecast demand. The RUS includes the North West electrification and Northern Hub projects. It includes a set of passenger growth forecasts to 2024 and the Strategic Freight Network (SFN) forecasts for 2019 and 2030.

Conclusion

67. Given that this is all work in progress, we believe that it is sensible for Network Rail, working with the industry to finalise the work on these two RUSs and to have regard to it during the development of the WCML timetable.

Infrastructure enhancements

68. Many stakeholders have raised with us the scope of proposed infrastructure developments in the north-west of England, in particular, the North West electrification project, and the impact they will have. Concerns have also been expressed about the impact of operators’ aspirations on the “Northern Hub” investment plans, which form part of both the Northern and WCML RUSs.

North West electrification

69. The Government last year confirmed the plans to carry out a significant staged programme of electrification in the North West to 2016 – starting with Manchester to Newton-le-Willows by 2013. These proposals will create opportunities for revised and accelerated service patterns to be introduced which will improve capacity and connectivity, as well as providing new electrified routes including diversionary routes.

Northern Hub

70. There are also proposals for significant investment in infrastructure in the Manchester area which would improve service frequencies, allow the introduction of a significant number of new direct journeys and improve connectivity across the whole of the North West region.

Conclusion

71. We expect that there will be a completely different timetable in the north-west, given that electrification is likely to produce different point-to-point times, and that different origin and destination pairs, routings and stopping patterns are likely to result. Given these plans

and the impact that they will have for the existing timetable, we don't consider it would be appropriate for us to grant rights to train operators that would prevent the industry taking advantage of the infrastructure improvements, thereby leading to further ossification of available capacity.

72. On that basis, as already expressed, ORR believes that it is vital for Network Rail to lead the industry in developing timetables through an iterative process that reflects the changed requirements as the various stages of the enhancements are completed.

Service enhancements

73. As well as the formal application received from Alliance, which is discussed in the covering letter, we are aware that a number of other operators (both passenger and freight) have further aspirations and plans from 2013 onwards. However, for various reasons, including commercial confidentiality, other operators chose not to make their plans public at this stage. Whilst some of these will remain confidential, at least for the time being, we have nevertheless had to have regard to them in reaching any decision. We also expect the incoming franchisee to have its own aspirations based around the franchise specification and possibly for additional services to new destinations.

Conclusion

74. In the light of the above and for the reasons already given we believe it is important that all operators have an opportunity to work together with Network Rail to arrive at holistic proposals that provide their respective customers with the best possible services and which make best use of capacity. For that reason, ORR believes that Network Rail must lead all interested stakeholders in developing timetables that best reflect the capacity available and which best meet customer demand.

Freight

75. We have made it clear from the start of this process that:

- (a) existing freight services should be retained and, only if necessary, retimed within current agreed track access rights;
- (b) regard should be had to the Freight RUS and predicted freight growth forecasts; and
- (c) account should be taken of any additional increase in freight services in line with SFN growth forecasts for 2019.

76. We therefore expect all affected freight operators to be included in the WCML timetabling project working group from the outset and for their positions to be fully recognised and taken into account. For their part, we expect freight operators to be as co-operative as possible, particularly in terms of flexing their trains outside contractual arrangements, subject of course to it not adversely impacting upon their commercial arrangements. Such flexibility would enable a recast timetable to produce benefits for all stakeholders.

77. Freight operators should also be aware that as their current contracts expire and they seek extensions or amendments, we expect to decide such applications in a way which is consistent with this proposed decision.

Timetabling

78. As explained at paragraph 7 of the accompanying letter the industry, under Network Rail's leadership, needs to take a proactive and holistic approach in developing a new timetable against the background of proposed infrastructure and service enhancements the first iteration of which would commence in December 2013. We very much see this as an iterative process essentially being driven by the North West electrification project. It would start with revisions to the December 2013 timetable and ramp up to take account of the subsequent stages of the electrification project as they are completed. Assuming that the new franchisee is announced in December 2011, which we understand is the intention, this will give the industry over a year in which to develop a timetable that can make use of the infrastructure improvements before the Priority Date for the December 2013 timetable.

79. We have noted concerns raised by some stakeholders about Network Rail's ability to manage the timetabling process for WCML and many have cited the problems experienced on the East Coast Main Line (ECML). We are conscious that these concerns may come to the fore again. However, the industry should note that, following the ECML lessons learned exercise we carried out last year, steps have been taken to ensure that these problems do not happen again. The capacity and performance work we requested for this process, albeit on a smaller scale, demonstrated that with good strategic planning and proper project management controls in place work can be completed to remit and on time. Network Rail is now of course leading an industry group working to develop a holistic timetable for ECML and we see this as being very much in the same vein.

80. In our role as regulator, we will keep a close eye on the work of the working group and offer guidance and advice as appropriate. If the group, once established, wishes ORR to attend meetings we would be content to do so, but in an 'observer' role - we have to be mindful of any role we may have in dealing with future applications (and possibly appeals) and we do not want to fetter our discretion.

81. To this end we expect Network Rail to instigate a programme of work to ensure that the appropriate project management arrangements are in place for the establishment of a WCML timetable project working group once the successful franchise bidder is announced. The group must include all interested stakeholders, be supported by a project manager whose responsibility will include the production of a project plan with timescales and resources. Among other things the plan should set out the:

- (a) membership of the group, i.e., Network Rail, affected operators (passenger and freight) and where appropriate and agreed by members, relevant funders, procurers of services and passenger representatives;
- (b) objectives of the timetable change;
- (c) timescales for the duration of the timetable development, including dates by when timetable change(s) are to be made to tie in with the Part D timetabling process – the first change will be December 2013, but further iterations will be required as infrastructure improvements are completed;

- (d) date by which all service specifications are to be received – operators to be bound by those specifications;
- (e) relevant established and published planning strategies, including those relating to freight and the provision of standard freight paths, together with any emerging changes, for example the draft WCML and Northern RUSs;
- (f) co-ordination of requirements with other ‘projects’ and other routes affecting/connecting with WCML;
- (g) obligations of each of the parties involved in developing and/or implementing the timetable change;
- (h) requirement (if necessary) for other planning activities e.g. performance modelling, operational issues and safety assessment and the timescales for undertaking these activities;
- (i) date by which final capacity allocation decisions are to be made; and
- (j) timescales within which any subsequent track access rights changes need to be made.

Of course, we expect existing rights, both passenger and freight, to be respected.

82. We shall arrange a meeting with Network Rail within the next few weeks to discuss this work and how we envisage it should be taken forward. This will include agreeing a remit, roles and responsibilities of all interested stakeholders, a change control and sign off process and a project sponsor who defines what the timetable needs to deliver. We will also discuss the resource implications with Network Rail. We would expect Network Rail to be in a position to consult stakeholders (DfT pending the new franchisee) in June 2011 about the proposed arrangements that will take effect in December 2011 – or whenever the franchisee is announced. We would also expect Network Rail to have produced a first cast of a project plan for discussion at the first meeting of the group.

83. We shall shortly be publishing a proposal for change to Part D of the Network Code to incorporate the principle of project working groups for major events such as the WCML timetable rights.

Organisations who responded to our consultation and a summary of the key points from their representations¹⁶

Department for Transport

- Responding to: Alliance and Grand Central
 - concern about availability of capacity, particularly in respect of Alliance's requirement for two trains each hour, and especially at Euston during redevelopment
 - Decreases value to government of franchise and its investment in WCML
 - Would abstract revenue from Northern and TPE franchises

Northern

- Responding to: Alliance
 - Concern about capacity & performance implications and impact on own resource deployment
 - Additional services are likely to abstract revenue
 - Train crew abstraction
- Responding to: DfT and Grand Central
 - Additional services are likely to abstract revenue
 - Concern about capacity & performance implications
 - Train crew abstraction
- Responding to: London Midland
 - Concern about capacity & performance implications

Alliance

- DfT
 - Concern that any decisions taken now could be premature, both in terms of the requirements of the franchise and the aspirations of open access operators
 - The franchisee may not have sufficient rolling stock to deliver the additional services
- Grand Central
 - Concern about suitability and availability of rolling stock
 - Not clear that business case is sufficiently robust
 - Danger of ossifying capacity on the WCML
- London Midland
 - Some capacity concerns regarding Euston-Northampton services
 - Introduction of rolling stock operating at sub-optimal speeds should not be allowed to preclude possibility of more efficient proposals being made in the future

London Midland

- Alliance and Grand Central

¹⁶ It should be noted that these are only the key issues and that in line with our usual practice there have been a number of subsequent exchanges on the detail raised in the representations.

- Risk of revenue abstraction
- Potential performance risk from introduction of new rolling stock and additional services
- DfT
 - Opportunity should be taken to look again at journey time protection in the ICWC contract, to ensure that they allow best overall use of capacity

Grand Central

- Alliance
 - Unable to start immediately
 - Unsupported by proper business case
 - Timescales for rolling stock procurement are over-optimistic
 - Capacity may not exist
- DfT
 - Premature given unknown scope of franchise
 - The economic case is not convincing
 - Availability of rolling stock may be insufficient
 - Excessive consumption of route capacity
- London Midland
 - Asked whether the nature of the new franchise will allow scope for these services to be carried forward long-term. Queries use of franchise rolling stock for non-franchised services
 - Concern over performance implications in the Crewe area

Virgin Trains

- DfT contract does not contain sufficient protection for the operator to ensure that it is able to deliver what the service level commitment is likely to be and will reduce the value of the franchise by so doing
- Premature for these decisions to be taken now given that the new franchise has yet to take shape and the McNulty review is not completed

Freightliner

- Concerned about impact on capacity north of Rugby. In fact, there is a case for officially declaring the WCML “congested infrastructure”
- Freightliner has conducted detailed timetable analysis and found problems with capacity in respect of the proposals from Alliance, DfT and Grand Central.
- More work would be required to fully understand the impact on capacity of London Midland’s proposals

Victa Railfreight

- No issues in terms of freight capacity with the Grand Central application
- Alliance application lacks sufficient supporting information to allay concerns, for instance in relation to capacity
- The DfT proposal requires a full assessment for potential performance impact in order to be fully understood, and should not be approved until that is provided

Centro

- DfT proposal insufficient to address overcrowding on Birmingham-Scotland route

- Concerned by London Midland's proposed reduction in the Liverpool – Birmingham service. An assessment of the potential impact of this will be needed
- Concerned about potential impact from Alliance and Grand Central applications on capacity originally intended for use by Pendolinos

Transport Scotland

- Welcomes DfT proposals for additional and faster Scotland services
- Some potential conflicts with ScotRail services
- Keen to ensure that Grand Central and Alliance proposals do not have any adverse impact on WCML performance

Merseytravel

- Notes no proposed additional services to Liverpool despite recommendations of the RUS
- Broadly supportive of DfT
- Concerned about Grand Central's proposed use of 110mph rolling stock and potential implications for capacity
- Alliance's proposals clash with the recommendations of the WCML and Northern RUSs, and the Northern Hub study
- Supportive of London Midland 21st. Strongly opposes the proposed 22nd due to the loss of the second direct service between Birmingham and Liverpool, with implications for other journeys

GMPTE

- Support DfT plans for WCML services through Preston, Pendolino services into Manchester, and north of Crewe
- Alliance proposals welcome in principle, but more work needs to be done to understand compatibility with relevant RUSs and Northern Hub. Proposals for Calder Valley are welcomed

Passenger Focus

- Supportive of direct services between Blackpool and London, and also of London Midland's proposals for extension of Trent Valley Services
- However, proposals cannot be fully understood until the WCML RUS is complete and the shape of the new west coast franchise is finalised.

West Yorkshire PTE

- Supportive of proposals from Alliance for improved cross-Pennine rail links
- However, this is with the proviso that any new services should not adversely impact on the overall quantum of train services in this area, Northern Hub and RUS proposals

TPE

- Alliance
 - Likely to undermine strategies emerging from WCML and Northern RUSs
 - Support through services to Blackpool in principle, but strongly object to rest of Alliance's proposals due to potential impact on capacity and risk of revenue abstraction, while believing that the market would be grown

- DfT
 - Broadly supportive but need assurances on performance and capacity impacts, and implications for the emerging RUSs and for North West Electrification
- Grand Central
 - Concerned about the potential impact on capacity and performance
 - Likely to undermine strategies emerging from WCML and Northern RUSs
 - Risk of revenue abstraction
- London Midland
 - Likely to undermine strategies emerging from WCML and Northern RUSs, and other industry plans and aspirations
 - Concerned about the potential impact on capacity and performance
 - Risk of revenue abstraction

DB Schenker

- Alliance
 - More information needed on potential impact of new rolling stock
 - Further work will be required to ensure that all potential conflicts with freight rights are resolved
- DfT
 - It has not been proven that capacity exists for the proposed additional services
 - Further work will be required to ensure that all potential conflicts with freight rights are resolved
- Grand Central
 - It has not been proven that capacity exists for the proposed additional services
 - Further work will be required to ensure that all potential conflicts with freight rights are resolved
- London Midland
 - It has not been proven that capacity exists for the proposed additional services
 - Further work will be required to ensure that all potential conflicts with freight rights are resolved



Annex C

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