

## **Rail Delivery Group**

Response to

### **ORR's consultation on amending Schedule 4 notification factors**

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# Rail Delivery Group response to ORR's consultation on amending Schedule 4 notification factors

**Organisation:** Rail Delivery Group

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Business representative organisation

**Introduction:** The Rail Delivery Group (RDG) was established in May 2011. It brings together Network Rail and passenger and freight train operating companies to lead and enable improvements in the railway. The purpose of the RDG is to enable Network Rail and passenger and freight train operating companies to succeed by delivering better services for their customers. Ultimately this benefits taxpayers and the economy. We aim to meet the needs of:

- Our Members, by enabling them to deliver better outcomes for customers and the country;
- Government and regulators, by developing strategy, informing policy and confronting difficult decisions on choices, and
- Rail and non-rail users, by improving customer experience and building public trust

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## Introduction

1. The RDG welcomes the opportunity to respond to ORR's consultation on amending Schedule 4 notification discount factors. We confirm that we are content for this response to be published on the ORR website.
2. The ORR describes the purpose of the Schedule 4 regime as being to compensate train operators for the financial impact of planned disruption (possessions), usually where operators cannot run trains as planned because Network Rail is carrying out engineering work. The compensation is lower if Network Rail provides sufficient advanced notification of possessions and for franchised passenger train operators the size of the notification factors determines the level of discount given.
3. In 2015 the industry, through the RDG, carried out a review of charges and incentives to inform the 2018 Periodic Review. The review concluded that the discount structure for Schedule 4 should be reformed and so we are pleased that ORR is taking this forward through the consultation.

## The Issue

4. At present, after Timetable Week minus 22 (TW-22), there is no financial incentive on Network Rail to notify late possession changes until the day before trains run. ORR is proposing that a discount on compensation is provided if Network Rail notifies operators of possessions by TW-14. Although well intentioned the industry feels that the inclusion of a new threshold at TW-14 would not incentivise the best industry behaviours as it would create unrealistic expectations that possessions notified at this date could be worked into the Informed Traveller Timetable. However, the industry notes that there is no industry process for agreeing possessions once the TW-22 deadline has been missed. This can be de-motivating for industry colleagues who work hard to accommodate these late notice possessions, only for them to be considered non-compliant.

## Process for variations to the working timetable

5. Part D of the Network Code sets out the process for Network Rail variations to the working timetable. This process works reasonably well if restrictions of use (possessions) are planned in accordance with the Part D timescales but does not work well if the original TW-26 date for agreeing the possessions is missed (which drives the Schedule 4 notification threshold at TW-22). The process for timetable variations that meet the TW-26 date is:

### TW-30

Network Rail should provide operators with its proposed possessions for the timetable week (TW).

### TW-30 to TW-26

Network Rail consults with operators to try and agree possessions by TW-26.

### TW-22

Network Rail notifies operators if they are required to submit revised access proposals.

#### TW-18

Operators must bid for revised access.

#### TW-14

Network Rail decides on revised access (the Offer).

#### TW-12

The revised timetable is uploaded and available for passengers (the “Informed Traveller Timetable”).

6. A process does not exist for possessions which are NOT agreed by TW-26. Under Part D there are no guidelines on alternative timescales for bid/offer etc, but instead Part D says that timescales should be **“reasonable in the circumstances”**. It also says that any operator who is unhappy with any final Network Rail decision can appeal.
7. For late changes, the industry works hard to find a way to make things work even though under Part D there is no formal process for late notice possessions. In addition, because late notice possessions always fall outside of the prescribed industry processes they are deemed to be non-compliant. It is demotivating to industry colleagues who work hard to try and accommodate late possessions for them to be considered non-compliant, when in fact such possessions are necessary for an efficient and orderly railway, and often are safety-critical.
8. The industry, therefore, believes it would be worth considering developing a new industry process, for the situation where TW-26 is missed, as this will lead to a better outcome for Network Rail, train operators and passengers. For example, it should result in a better incentive for the industry to work together to agreed timescales and reduce the incentive to appeal and prolong the process.

## **Schedule 4 incentives for early possession planning**

9. The Schedule 4 regime compensates train operators for the financial impact of planned disruption (possessions) that mean operators cannot run trains as planned, for example because Network Rail is carrying out engineering work. Network Rail is financially incentivised to plan possessions early as the Schedule 4 compensation it pays to franchised train operators is lower for early notification of restrictions of use.
10. The current S4 compensation payments are:

**Early notice threshold.** Possession plans agreed by D-26 (i.e. 26 weeks before the working timetable comes into effect). At this threshold Network Rail currently pays compensation at 45% to 55% of the marginal revenue effect (MRE) amount. The percentage depends on the type of service.

**Informed traveller threshold.** Possession plans agreed after D-26 but before TW-22. At this threshold Network Rail pays compensation of 65% to 70% of the MRE.

**Late threshold.** Possession plans agreed after TW-22 but by one day before the train runs. At this threshold Network Rail pays compensation of 85% of the full MRE.

**Unplanned.** Disruption after the late threshold is unplanned disruption with compensation paid in accordance with Schedule 8, i.e. 100% of the full MRE.

## ORR's proposals and possible improvements

11. Under the current Schedule 4 thresholds and notification discount factors (NDFs), if the informed traveller threshold (TW-22) is missed then there is very little financial incentive for Network Rail to notify late possession changes until the day before trains run. This is because, once TW-22 is missed, Network Rail pays the same compensation regardless of whether it notifies a train operator at TW-21 or the day before the possession takes place. Similarly, as noted above, there is no timetable change process under Part D of the Network Code if possessions are not agreed by TW-26.
12. We agree with the ORR proposal to make the notification factors the same for the early threshold (D-26) and for the informed traveller threshold (TW-22). This is because, according to ORR's research, the difference in these dates has no appreciable impact on passengers when planning or buying tickets. It is also the case that offering a larger discount at D-26 incentivises Network Rail to notify train operators too early.
13. We also believe that the introduction of a new Schedule 4 threshold between TW-22 and the day before trains run should be considered. However, we do not support the ORR proposal for this new threshold to be at TW-14. Having a notification threshold at TW-14 (hence before TW-12), could create the expectation that the revised timetable could be uploaded by TW-12 and thus could legitimise late notice possessions. However, it is not always possible to upload at TW-12 if notification of a possession is made at TW-14 because 2 weeks is usually insufficient time to do this. We consider that in the majority of cases amended timetables could be able to be uploaded about 6 weeks after notification of a possession requirement; i.e. a 6-week turnaround. Based on the ORR research, many passengers like to plan their journeys from about 2 weeks before travel and hence when there are late notice possessions we believe the regime should provide strong incentives to upload timetables before that, say at TW-6 or TW-4. A new **intermediate** notification threshold at TW-12 or TW-10 would help achieve this and hence would clearly provide a much better incentive than having no threshold until the existing threshold of the day before travel.
14. It is important that the notification factors are consistent with industry processes for possessions planning, i.e. the Network Code. It should also be noted that regardless of the Schedule 4 NDFs, Network Rail will continue to face commitments under Part D to provide early access information to operators. The industry suggests that further work is undertaken to fully consider the implications of a new threshold between TW-22 and the day before trains run and whether any changes should be made to Part D.
15. We note that the industry Operational Planning Strategy Group (OPSG) has already been discussing how to improve the framework for managing late notice disruptive change. The group is considering a proposal to make the approach more disciplined by improving the process for decisions about which late notice changes are needed, the criteria for deciding this, and effective communication with affected parties. The objective is that the process for agreeing disruptive possessions is smoother and more considered.

16. Following challenge by Transport Focus there is also an RDG led review, steered by the NTF, to improve the capability of the industry to achieve the informed traveller timescales. The review covers quantification of the problems, analysis of root causes and development of an action plan for improvement. The review should also help inform the Schedule 4 thresholds and process for CP6 covered by the ORR consultation. We anticipate the review being completed around the end of April.
17. We consider that the industry should set up a Task and Finish group to consider a new process to take account of possessions that are needed after TW-22. We recognise, however, that this could be challenging as it should be done alongside a possible change to Part D of the Network Code. It could be that part of a potential revision to industry processes would include an intermediate threshold between TW-22 and the day before trains run – possibly at TW-12 or TW-10.
18. The benefit of an intermediate threshold is that, when late changes occur (which is inevitable from time to time), it will strengthen the incentive to give more notice than the current regime and hence provide more timely information to passengers about amended services. The discount rates that are set for the possible new threshold (at TW-12 or TW-10) should also be set to provide sufficient steps between the early and very late notification thresholds to continue to provide strong incentives to notify as soon as possible. Hence it should provide a strong incentive to notify by TW-22, but if that is missed then there would be a strong incentive to notify by a new intermediate threshold rather than at very late notice.
19. We consider that notification at TW-12 or TW-10 could allow for passengers to be made aware of the impact on train services at TW-6 to TW-4.
20. Figure 1 illustrates the current regime and the possible changes to thresholds described above.
21. In summary, we propose that the industry sets up a Task and Finish group to consider the possible improvements considered in this response that draws upon the OPSG work and the current RDG review. The intention would be for the group to report its findings in time for them to be considered by ORR for inclusion in the Final Determination in October 2018.

**Figure 1: Timetable variations and Schedule 4 thresholds - illustration of the current regime and possible options for improvement**

