

The Future Shape and financing of Network Rail – The Scope

Submission from DB Schenker Rail (UK) Limited

December 2015

1. This is the response of DB Schenker Rail (UK) Limited (DB Schenker) to the scoping report of the Shaw Review issued in November 2015.
2. DB Schenker is the largest rail freight operator in the UK and is a wholly owned subsidiary of Deutsche Bahn, the second largest mobility and logistics company in the world. DB Schenker operates over 5000 trains per month in the UK conveying everything from cereals to coal, consumer products to biomass and petroleum to steel. DB Schenker employs over 3300 people in the UK providing freight, infrastructure, rail support and charter passenger services within the UK and freight services to and from continental Europe via the Channel Tunnel.
3. DB Schenker, in common with other rail freight operators, is a wholly private sector activity receiving no material direct government support in the UK. In a heavily-capital intensive industry, DB Schenker owns and operates its own assets, including depots and rolling stock, and has invested heavily in new locomotives, wagons and facilities since UK privatisation.
4. DB Schenker's response is in four parts – general observations about the value and characteristics of rail freight, description of the specific needs of national operators such as DB Schenker and responses to the specific questions in the scoping report.

The Value of Rail Freight

5. Rail freight generates over £1.5bn of economic benefits for UK plc every year through a combination of improved productivity, reduced congestion and wider environmental benefits. It is vital for the competitiveness of the UK economy and is an intrinsic part of everyday life in the UK.
6. Rail freight transports goods worth over £30bn pa, moving over 25% of the containers entering the UK and underpinning industrial sectors such as power generation, construction and steel. Rail is also a key supplier to UK manufacturing sectors such as the automotive industry and a major supplier to Network Rail and other Infrastructure Managers.
7. Rail freight has transformed itself since privatisation in the mid-1990s into a competitive and vibrant industry, recognised by the CEO of the Office of Rail & Road as "the most transformed sector in the rail industry since privatisation". Total volumes increased by over 80% from 13.5bn ntkms in 1995 to 24.4bn ntkms in 2013-14.
8. The sector is changing as the UK economic base itself shifts, with reductions in traditional rail freight markets such as moving coal to power stations - where Government environment and other policy choices are driving conversion to

biomass, renewables and other forms of electricity generation. Alongside this is an increase in the volume of containers moved for the growing retail/consumer sectors. Continued rail freight growth will increasingly focus on the retail, construction and international sectors reflecting the general change in patterns of the UK economy.

9. This will have geographical as well as sectorial implications, as the concentration of the UK's population south of a line from the Humber to Lancashire will become increasingly significant for rail freight. Ensuring sufficient usable rail capacity is available south of this line to allow rail to compete with road will be more complex than ever over the next decade and it is important that the UK rail structure does not make this task more challenging than it already is.
10. Rail freight is an intensely competitive industry – both within the mode and with road transport in particular. This strong competition has driven efficiencies, lowered prices to customers and reduced the costs of operation. The drive for longer and heavier freight trains is one example of how this has been achieved. In the decade after 2002/3 the number of freight trains on the network reduced by over 33%, whilst volumes increased by 17% - this meant (taking distance into account) that each freight train increased its cargo carried by over 50%.

These pressures will continue and the sectors offering the most volume potential for future rail growth are also those with the strongest price and service competition with road transport. Again, it is important that the UK rail structure supports rather than undermines rail freight in further developing efficiencies to address these pressures.

11. Intrinsic to continued rail freight growth and development will be continued private sector investment. Investment in rolling stock and facilities by freight operating companies such as DB Schenker is clearly understood - over £2bn has been invested by FOCs since privatisation.

In addition over £500m was invested by Government (including EU funding) in CP4 on freight specific network enhancements and a further £230m has been planned for CP5 freight specific network enhancements by the UK Government and Transport Scotland. Since 2009, successive Governments have based their rail freight policy on the development of a Strategic Rail Freight Network and any rail restructuring should ensure that the underlying principles of the SFN continue to be supported.

Freight customers and suppliers - including ports and terminal operators have also invested heavily in rail freight facilities - over £250m in the last decade on port-related rail infrastructure alone. Investment in new rail-connected warehousing and terminals is critical for future freight growth.

Ensuring the private sector has the confidence to continue to invest to support rail freight - and rail freight growth in particular - should be a key target for any new industry structure.

12. Rail freight can move freight in greater volumes, more safely and reliably than road transport. Each freight train removes up to 75 HGVs from the UK's roads – without rail freight over 7.5m additional road journeys would have been needed. Transporting freight by road reduces CO2 emissions by 76% compared to road.

Characteristics of Rail Freight

13. As already stated, freight is a wholly private sector activity determined by customer and market needs. In this respect it is different to passenger rail and rail freight has a very different, less direct, relationship with Governments, funders and other devolved bodies as a result.

A practical result of this is that freight operators such as DB Schenker do not enjoy the degree of protection to services that results from the Franchise Specification process and are much more dependent on the nature of Track Access Rights and protection from an independent Regulator. Rail restructuring has to take cognizance of this.

14. Rail freight operates in *response* to specific customer demand - a key distinction from passenger where services are planned in *anticipation* of demand. Many trains are customer-specific rather than multi-customer - so if a customer does not require a service on a particular day or week it will neither be scheduled nor run. Rail freight's use of capacity is therefore often very different to that of passenger operators.
15. Rail freight is a nationwide, international business. It does not correspond neatly to historic railway administrative boundaries in the way that passenger rail does. This is important as railway administrative structures are generally based around passenger needs and it can be easy to misunderstand the complexity and difficulty this can cause national operators such as freight.
16. Most rail freight services operate at least two, and often more, railway administrative boundaries; an intermodal train from Felixstowe to Trafford Park using the cross-country Felixstowe to Nuneaton route travels across three Network Rail routes. This has led to complexity in the past, and Network Rail (and Railtrack before) has struggled to find the most effective way of managing freight within its internal matrix organisational structures.
17. Freight is often not seen as a priority within the rail industry – for example, with rail freight accounting for only 4% of train numbers and 8% of all train miles, rail freight is often not seen as a priority by Network Rail. It can be hard for Network Rail's Route Managing Directors, under pressure from their lead passenger operators, to make time for freight at all.
18. There is also little natural alignment between rail freight activity and the emerging politically devolved regional and transport units. Transport Scotland's current consultation on a rail freight policy does make clear the interaction between internal Scottish activity and national/international links that are vital for the Scottish economy. The same is true for the emerging devolved regional organisations such as Transport for the North or Midlands Connect, and it is important this is more widely realised.
19. Common to both railway and political devolution is how an appropriate balance will be made between local/regional and national requirements/priorities in ways that

best support regional and national economic activity and growth. Any new structure for the railway has to be clear as to how this will be managed and optimised.

20. Previous attempts to devolve rail freight activity to railway routes or zones have not been successful. Network Rail's response to the first stage of devolution in 2011 was to recreate a central freight team (led at Director level) to manage both the external interface with FOCs, and other customers, and the internal interfaces with Routes, IP and other teams.

In general terms this structure has worked as well as any since privatisation, but it has needed to be a relatively large team and has been critically dependent on the personalities of key executives and how they are perceived within Network Rail.

One downside of this structure is that it becomes easier for Network Rail's route management to "leave freight to the freight team". It is also hard for a national freight operator to maintain effective relationships with all Network Rail routes, as well as the central freight team.

Structure in itself has been, and is, no guarantee of success.

What do National Operators need from rail restructuring?

21. There are a number of overarching principles with respect to freight that need to be taken into account in any restructuring both of Network Rail and the industry in general. Many of these are usually covered by the "System Operator" concept which has been the subject of separate consultation by both ORR and Network Rail.

Efficient system operation is critical to the success of national operators like DB Schenker. DB Schenker understands that system operation extends beyond the role currently undertaken by Network Rail and includes some functions currently undertaken by both the ORR and Governments.

The need to clearly define and structure these functions - and to have a consistent, industry wide consensus on a definition of system operation - is becoming ever more urgent and important and it is hard to see how significant progress can be made on the future structure of Network Rail without this.

22. In this context, DB Schenker believes the following principles need to be taken into account for freight. Freight needs:
- a. One national Track Access, Access Charging and Incentives regime (set and overseen by an Independent Regulator) that
 - i. supports modal transfer from road and continued growth
 - ii. supports and incentivises investment in track friendly equipment
 - iii. is non-discriminatory between freight operators
 - iv. does not discriminate against secondary operators on any route.

- b. Capacity allocation and train planning processes and regimes that facilitate cross-route operations and are no less onerous/inefficient than today.

Capacity allocation should remain separate and overseen by the Regulator.

Train Planning could take different forms, but any move away from the current centralised model should be contingent on clear improvement upon the current levels of response and accuracy of planning for freight services.

One lesson from the centralisation of train planning to Milton Keynes was the loss of knowledge and experience when people declined to move. Only now are the benefits of the training for many new staff at Milton Keynes beginning to be seen, and great care needs to be taken to avoid a further period of dislocation from any downstream changes.

- c. Control and operational management processes / regimes that facilitate cross route / national operators. A particular success of the current organisational structure has been the freight presence in the National Operations Centre at Milton Keynes that has provided a 24/7/365 freight co-ordination facility at times of perturbation. Any new structure has to have the ability to co-ordinate - and where necessary to instruct/prioritise - across Route controls.
- d. A holistic, consistent and joined-up approach to disruptive access planning to ensure adequate network availability.
- e. Solutions that facilitate understanding/challenging/addressing and reducing Network Rail freight costs. In particular, in managing economies of scale and the deployment of scarce/specialised resources (such as some wagons for infrastructure support), care needs to be taken to avoid transferring inefficiencies to operators.
- f. Solutions that facilitate cross-route enhancement planning and delivery. This needs to cover how customer and market specifications, clear outputs/outcomes and freight specific/general costs will be managed.

23. Achieving all the above will not be straightforward and there is a clear role for Governments in specifying clearly;

- a. what they want the railway to deliver in terms of freight;
- b. what they are prepared to fund.

24. This may need to take the form of specification in the quinquennial High Level Output Statements and Statements of Funds Available, and/or any formal Guidance issued from time to time to industry bodies including the Office of Rail & Road, Network Rail (or its successors) etc.

25. There needs to be clear recognition of the needs of freight in the Duties of, Guidance to and incentives regime for any new industry bodies or structures. For example, the remuneration package for Route Managing Directors of devolved Network Rail routes (irrespective of whether in Network Rail or separate ownership) should reference the

achievement of freight and other secondary operator objectives every year.

Responses to Specific Questions

Network Rail's Structure (Questions 1 and 2)

26. Network Rail is an extremely large and diverse organisation that has developed over time and contains some residual activities that are part of Network Rail as it was administratively the easiest solution at a particular point in time. DB Schenker would counsel not to worry unduly about these at this stage, but to concentrate on the key functions and activities as set out in the scoping document and deal with residual issues downstream.

27. In paragraph 20 we set out that Network Rail's response to the first tranche of devolution in 2011 was to recreate a central freight team. The success of this suggests that for freight operators like DB Schenker, a national organisational solution that is allied to - and part of - a devolved structure is likely to be effective.

In principle there ought to be no reason why such an organisational response might not work even if one or more devolved units was under separate organisational control or organisation - but in that event a more structured legal framework is likely to be needed. One advantage of this would be the need for all parties to clearly define their roles and responsibilities and obligations.

28. The report needs to clarify that freight LMDs are different to passenger LMDs, with Network Rail having no role other than (in some cases) as a landlord. Some FOCs own and operate their own LMDs (and in some cases the property upon which the LMD is situated) and there is also a strong tradition of third parties offering LMD services under contract to FOCs.

29. Network Rail has a particular "industry advocacy" role for freight. Given the very competitive nature of rail freight, some customers (and potential customers) do not want to engage with one or more FOCs at the development stage of proposals and prefer to discuss matters confidentially with Network Rail in part to preserve their downstream negotiating position with FOCs. This places a particular responsibility upon Network Rail to avoid any actions that might disturb the competitive rail freight market.

30. In light of the competitive market, Network Rail ought to have a more complete overview of what is happening in rail freight than other industry parties.

31. Given the need for more rail connected freight facilities, Network Rail has a key role in developing and implementing new or changed connections to/from the network, and working with facility owners to improve or reduce the cost of these. Historically this has been an area where Network Rail has been strongly criticised in terms of both cost and timescales for achieving even minor changes.

Network Rail is the legal counterparty with third party facility owners for Connection Agreements.

32. Network Rail has historically led on many pan-industry initiatives, partly because they have more staff and are better able to accommodate the workload than operators. In the same way, Network Rail has been better able to manage stakeholder relationships (and supporting policy research) with e.g. Local Authorities, LEPs and the European Commission because of their size, geographical coverage and staffing levels.
33. Some activities have found homes either within, or alongside Network Rail, simply because there was no other natural “home” for them. Examples at different times include freight vehicle certification and Industry Dispute Resolution bodies such as ADR. As said earlier, these should all be noted and dealt with downstream.

Network Rail's Accountability (Question 3)

34. Freight's place in Network Rail's emerging route structure and operating model remains uncertain and reflects the difficult both Network Rail - and predecessor organisations - have found in managing freight.

The comments in paragraphs 20 and 27 refer here. It is important that Network Rail make clear that the arrangements for freight are an integral part of their operating model and not an “add-on” to address an issue inadvertently overlooked at the design stage.

35. DB Schenker was an Industry Member and actively participated in that model of Network Rail governance. It was a singularly ineffective process and at the time it seemed easy for Network Rail to manage the model to its advantage. It seemed to DB Schenker that maintaining control of key information was an important element of this as even the most diligent Public Members were highly dependent on the level, accuracy and timeliness of information supplied by the Company.
36. However the recent reviews of the CP5 enhancement portfolio, and supporting processes, have highlighted the complexity and difficulty of understanding of much railway cost and asset information. In this light, the dilemma for Network Rail of establishing and maintaining a proper balance between detail and clarity for Members with only limited railway knowledge is perhaps a little more understandable.
37. In addition, it is evident that with each passing year there are fewer and fewer industry players with the relevant cross-industry experience that aids understanding and management of such information.
38. This has also clearly been an issue for ORR in its oversight of Network Rail and it is hard to escape the conclusion that the Department is likely to encounter similar issues given its increasing role in Network Rail governance.
39. It is evident that the reclassification of Network Rail changed the previous balance of responsibilities. In the absence of normal financial disciplines imposed by shareholders, then the responsibilities of the Board of Network Rail are now even more important in ensuring financial control and value for money - and the roles now exercised by the Secretary of State and the Special Member are pivotal.

40. The Periodic Review (PR) process has, in DB Schenker's view, been a mixed success. The reliance of the ORR on Consultants (and often indeed on Network Rail's own work) in assessing and determining Network Rail's efficient costs has always seemed problematic to DB Schenker and the lack of sufficient experienced resource within ORR to address some issues or challenge Network Rail has been deeply worrying.

As an example, during PR13 the freight operators, including DB Schenker, attempted to employ consulting engineers to challenge Network Rail work on both VTISM (a modelling tool used by NR as a basis to allocate infrastructure costs by vehicle type) and the costs associated with structures such as bridges. However both of these were relatively small pieces of work and difficulty was experienced in attracting any responses as there was a reluctance on the part of consulting engineers to be seen to be working on a small piece of work for FOCs that might complicate or preclude their subsequent involvement in more remunerative Network Rail or ORR projects.

It is not unknown for consultants approached by (e.g.) a FOC to undertake work relating to Network Rail to seek Network Rail's permission to even respond to that approach.

41. There was (and remains) a clear asymmetry of knowledge and experience between Network Rail and other industry parties. The ORR did not, during PR13, appear to recognise this (let alone address it) until very late in the process when some key personnel changed.

At times there was a feeling that Network Rail was able to control or deeply influence elements of the PR process.

42. DB Schenker, as with most FOCs, was heavily engaged with the PR process as FOCs are fully exposed to changes in charges and incentives. In this there are major differences to TOCs who are often "held harmless" from PR changes.
43. An unintended consequence of the PR process seems to be that the ORR seems to spend disproportionate time and effort on freight related charges and incentives, which form a minor element of NR's overall funding, rather than concerning on "big ticket" items which simply "flow through" the system.
44. However despite these concerns such a process has to be repeated for PR18. DB Schenker remains a strong supporter of both the quinquennial funding model and Regulatory setting of access charges, as they help in giving certainty to the rail sector. Changing who undertakes such a review will still leave the fundamental questions of information and knowledge asymmetry, and having sufficient understanding of asset behaviour and cost to effectively challenge Network Rail. This is what has to be addressed.
45. Changing the flow of funds may provide one way of trying to address this. In itself it will not, in DB Schenker's view, be sufficient. More detail is needed on what the Government seeks to achieve (and how it will do so) but DB Schenker has some concerns about the potential impact on freight.

DB Schenker would be opposed to any routing of any element of Network Grant via FOCs, not least as it would likely create State Aid issues for what are private sector companies.

However routing what is now Network Grant via TOCs risks further marginalising FOCs in their relationship with Routes / Network Rail.

Network Rail's Customers (Questions 4-7)

46. DB Schenker agrees that Network Rail's primary freight customers are the FOCs. In the past this has not always been clear, and Network Rail has often sought parallel relationships with end users which have on occasion complicated the dynamics of the competitive freight market.

The proposed approach mirrors and supports the normal contractual chain. Whilst customers and third parties have the right to own their track access rights separately, the complications of such an approach mean that this option has rarely, if ever, been followed. End customers contract with FOCs, and expect FOCs to manage the relationship with Network Rail and other infrastructure managers.

DB Schenker acknowledges that some end customers and third parties (such as terminal operators) have a direct relationship with Network Rail on property and Connection issues. Equally some customers have sought to develop relationships with Network Rail as part of their commercial approach with FOCs.

Notwithstanding these subtleties of the competitive market, having Network Rail's primary commercial relationship with freight clearly articulated as with FOCs is helpful.

47. Network Rail's track record of meeting and responding to freight customer needs is variable. As has already been said, the establishment of the central Freight team was positive and led to strong focus and improvement in areas such as operational performance. Network Rail is consistently exceeding the CP5 Regulatory performance metric, as an example.

The Network Rail freight team has also worked with diligence and purpose on a sectoral basis in managing some customer aspirations for development - biomass and some major port developments are good examples.

However, in other areas, there is still much to be desired. Speed of response often leaves much to be desired. A further example is the way Network Rail manages the planning and implementation of small changes to railway infrastructure for freight. Extended time scales, very high costs and delays are the norm. It took Network Rail over 4 years to plan and move *one* signal at the exit to Southampton Docks to enable longer automotive trains to operate in response to customer demand.

Other examples where improvement could be made include Train Planning, which in general remains quite reactive (despite freight train velocity being very poor and usable paths non-existent on key routes), and freight cost reduction - which currently does not appear to be high on Network Rail's agenda.

48. Given the large number of freight end-users and third parties, it is sensible to channel customer pressure via the contractual chain which reduces the pressure on Network Rail to more manageable levels. Otherwise Network Rail would be subject to diffuse, often opposite and potentially contradictory demands and requirements which would significantly complicate their management task.

49. In a more devolved world, making freight customer achievement and satisfaction an explicit element of the objectives of both the central/system operation function and devolved units will be necessary.

Making achievement of freight objectives an element of the remuneration and bonus arrangements of Route Managing Directors and their teams (as well as a central freight team) would provide a powerful incentive.

50. To assist this, clearer expression and greater transparency, within the bounds of commercial confidentiality, of what FOCs and freight customers want would be helpful. This could then form the basis of what constitutes freight reasonable requirements for RMDs to deliver. DB Schenker acknowledges that this will place responsibilities upon FOCs as well as Network Rail.

51. The working of the operational performance regime is complicated by the benchmarking process and there is no straight-line relationship between performance and financial payment. As an example, the changes in benchmarks for freight between CP4 and 5 have greatly benefited Network Rail, who consistently failed to achieve regulatory performance levels in CP4 to the extent that the ORR took enforcement action.

As a result of these changes, FOCs (whose operational performance in CP4 was good and who have further improved in CP5) have seen a collective £15m+ pa *worsenment* in the financial outcomes from the performance regime in CP5.

At face value, the reworking of the performance regime appears to have had the unintended consequence of rewarding failure and penalizing achievement.

52. ORR fines, or penalties for overspending, do not seem to DB Schenker to be effective not least given the asymmetry of the quantum of fines to Network Rail's turnover.

Other regulatory measures - such as the establishment of the Freight Recovery Board in 2012 to address Network Rail's underperformance in freight performance, can be much more effective.

53. Reputational incentives are evidently more effective, especially post-reclassification. One downside of these is that they can lead to Network Rail "managing up" (whether to the ORR or DfT or Government or Parliament) rather than concentrating on their customers' requirements.

Devolution (Questions 8-12)

54. Railways are by definition geographical entities and all railway organisation models have by necessity a geographical element. Even British Rail's Sector model had geographical expression, including the inevitable compromises and trade-offs.
55. The route structure continues a general model based around main lines radiating to/from London that has existed in different forms for nearly a century.
56. As has already been said, there is a much closer fit of this model to passenger rail (in its current form) than to rail freight.
57. The main advantage of this model is that it is known and familiar to most in the industry and allows management attention to concentrate on the (very considerable) task of making a new devolved structure work for all customers.
58. Changing the model to different geographies, or on the basis of service type, would considerably increase the scale of the management and administrative task in managing the change process and implementing the new structure. A whole new set of interfaces would need thinking through and defining.
59. Having said this, having a railway devolution model that is not aligned to the emerging political devaluation model is not helpful; whilst the logic from a rail point of view is evident to railway personnel; it is also capable of interpretation as continuing what is often seen as rail's introspective view of its role and capabilities.
60. For cross route and national operators, retaining a strong, clearly defined system operator function is vital. Freight's requirements in this respect have already been set out in paragraphs 21-23 of this response.
61. It is important that national network benefits are preserved - customers ought to perceive that the network remains one network and that any changes from further devolution or organizational change are seamless and not visible.

Equally, the means as to how network optimisation will function going forward needs to be clearly articulated and planned for.

Some scarce resource – e.g. particular wagon types used for engineering support services, are likely to be better managed on a holistic national basis.

62. It will be important procurement advantages such as economies of scale and equipment standardization are not compromised.
63. A key risk will be the change process associated with any changes. In process terms these risks can be relatively easily identified and mitigated by effective planning and disposition arrangements.

More complex are the people issues. Major reorganizations usually result in substantial changes in personnel with "trickle" effects that last for years. Typically these take the form of vacancies with key tasks either being done slowly or not at all.

For several years after a reorganization there are concomitant changes as people are promoted or moved to fill vacancies, thereby creating further vacancies which are duly filled by HR processes which typically take weeks and months. The lower down the organisation you go, the greater this “trickle “ effect and it goes without saying that able and talented individuals tend to move first and most frequently.

The practical outcome of this is frequently a degree of “eyes off the ball”, seen in impacts on operational performance, delivery of enhancements and the slowing down of efficiency and other initiatives.

Frequently new people have to be re-educated in customer and other sector requirements which is time consuming and costly. It takes time to reestablish teams and then rebuild relationships with customers, suppliers and stakeholders.

Growth, Planning and Enhancements (Questions 13-16)

64. Strengths in Network Rail’s current approach to planning and delivering enhancements include;

- a. The familiarity of the industry (including the supply industry) with the GRIP processes;
- b. The involvement of key stakeholders in industry forums to determine outputs and how to prioritize spend – whether through Programme Boards for major enhancements or Route Investment Review Groups (RIRGs) for smaller schemes.
- c. The involvement of key stakeholders at all stages of the Long Term Planning process.

65. Weaknesses in Network Rail’s current approach to planning and delivering enhancements include;

- a. Weak (or non-existent) programme management of some major projects;
- b. Management of some cross-route enhancements that are not large enough to be classified as major programmes;
- c. The development and management of small enhancements, which frequently do not sit comfortably in NR’s contracting frameworks and are consequently unattractive and low priority for NR Routes, suppliers and contractors;
- d. Lack of alignment between different enhancements even when physically linked – for example the failure to progress access/egress to/from the GN/GE Joint Line at Werrington has meant the anticipated outputs from the CP4 investment in the Joint Line Upgrade cannot be realized and the CP5 investment in the East Coast Connectivity Fund is considerably complicated
- e. Constant personnel changes, e.g. of sponsors;

- f. Inexperience of key personnel, often combined with lack of asset knowledge, which can result in inadequate planning and cost estimation;
- g. Lack of operational experience within Network Rail;
- h. Poor definition of outputs and outcomes from some enhancements;
- i. Changes in standards or their applications – e.g. gauge;
- j. The sometimes artificial distinction between renewals and enhancements, particularly when items are physically or operationally linked but then treated in different ways.
- k. The complexity for FOCs such as DB Schenker in covering all Route based initiatives including RIRGs.

Developing Options (Questions 13-16)

66. Important structural features of any future infrastructure provider model would be:

- a. Transparency of information, operation and decision making;
- b. Demonstrable non-discrimination between all customers, but especially between those competing in the same market(s);
- c. The ability to draw an appropriate balance between route and national customers/issues/priorities in line with the Duties and Guidance that have been set;
- d. Strong System Operation, with the authority to mandate where appropriate.

67. Key to the success of any future model will be the need for Governments and devolved funders to clearly specify, in a joined up and consistent manner, what they want the railway to deliver in for freight users, passengers and infrastructure managers and what (and how) they are prepared to fund.

To the extent that there are conflicts and trade-offs in those requirements, Governments and devolved funders will have to work with the industry and infrastructure managers to resolve them.

68. Periodic Reviews are complex, multi-faceted processes. DB Schenker supports the need for continued independent and strong economic regulation, of which periodic reviews are an intrinsic element.

The emphasis should therefore be on how to improve the Periodic Review process and to ensure that the majority of time, effort and money are focused on the “big ticket items”. During PR18, it seemed to DB Schenker that disproportionate time and effort was expended on relatively minor (in overall industry terms) freight charges and items.

In paragraphs 40-41, the issue of information asymmetry has already been covered, but it is a key area to address in improving the periodic review process.

69. DB Schenker suggests that the criteria for assessing options should be simple and focused on answering what success looks like.

Ideally FOCs and freight users would not discern any change (other than improvement) to current service levels and standards.

For freight these critical success factors should include:

- a. Does the structure continue to enable rail freight to support UK economic activity and deliver the benefits recognised by Governments?
- b. Does the structure deliver benefits for FOCs and freight customers?
- c. Does the structure enable continued freight growth?
- d. Does the structure enable what Governments and devolved funders want from freight?
- e. Does the structure facilitate cross-route/national operations ?
- f. Does the structure draw an appropriate balance between devolved activity and network-wide consistency and optimization?
- g. All things considered, is the structure better for freight than the status quo ?

Network Rail funding and financing (Questions 21-28)

70. The Regulatory Asset Base enabled Network Rail and the industry to manage what are sometimes inevitable changes during infrastructure project development relatively easily. The apparent perception of this being a “Network Rail credit card” with a focus merely on meeting the minimum monthly payment (which is capable of misinterpretation as being tantamount to financial indiscipline) seems slightly unfair.

71. RABs remain an established regulatory construct in the UK and therefore a relevant reference point.

DB Schenker accepts that with reclassification that NR financial risk is now classified as Government expenditure, but if Government wants the industry to operate as if it is in the private sector to the greatest extent it can, some form of mechanism that gives some flexibility to Network Rail seems necessary.

72. Ultimately these are matters for Government and other funders, rather than operators such as DB Schenker. However, as covered in paragraph 11, the scale of private sector investment in rail freight means that perceptions of political and regulatory risk are important and the financing arrangements for Network Rail will influence these.

73. If the Review team would find it helpful to discuss DB's wider experience of funding models across Europe, we would be happy to set up such a discussion.

Risks and Implementation (Question 29)

74. The authority to ensure the maintenance of a whole-system perspective is important and must be clarified at the beginning of the process to enable any devolution to develop in a managed framework.
75. The report may underestimate the people and cultural aspects of change, and the potential disruption to "business as usual" from these human aspects. Experience of previous major reorganisations suggests that these can continue for a period of years as the industry reestablishes equilibrium.

DB Schenker Rail

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