



## **RAILTRACK'S STEWARDSHIP OF THE NETWORK**



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## *Regulator's foreword*

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1. This document is my formal response to the report published in April 1999 by the consultants Booz Allen and Hamilton Limited, appointed by my predecessor to investigate and report on the sufficiency of Railtrack's stewardship of the national railway network. It has been informed by the responses of train operators and others in relation to the Booz Allen report and also the 1999 Network Management Statement. Railtrack's responses to the Booz Allen report have also been taken fully into consideration.
2. Railtrack took over the national network five and a half years ago. Since then the company has received significant amounts of money from taxpayers, farepaying passengers and freight users.
3. The Booz Allen report is a highly critical assessment of the way in which Railtrack discharges its obligations as the steward of the national network. Although Railtrack asserts that it has spent considerable sums on the network, the report states that it is likely that there has been a decline in the underlying quality of the network assets as a whole. The implication of this is that, in some respects, the national railway network may be in a poorer condition in 1999 than it was when it was in the hands of the nationalised state corporation, the British Railways Board, before 1994.
4. At the heart of the Booz Allen report are criticisms of the company's knowledge of its assets and its management of them. I believe that in order to look after its assets properly, the company must know what they are and it must know their present condition. Moreover, by altering its asset maintenance policy so as to extend the average age of assets before they are renewed, Railtrack may well be focussing too much on the short term and storing up serious problems for the future. In these and many other respects, Railtrack should be leading the industry, taking a long-term view and investing wisely and well in the care and maintenance of its assets, as well as enhancing them.
5. It must always be remembered that Railtrack's assets and its stewardship of them are not matters of purely private commercial significance. Its assets are of national importance, and the railway industry and those who use it, pay for it and depend on it have a right to expect far better. In public policy and economic terms, Railtrack is the

trustee of the nation's railway. Much is rightly expected and demanded of trustees. In this respect, Railtrack's record to date has not lived up to those expectations.

6. Railtrack has also been criticised in relation to its dealings with its dependent customers. It is a monopoly. Moreover, it is a pervasive and far-reaching monopoly. In that position, it should adopt and adhere to very high standards of conduct. Instead, customers face a grudging approach to the provision of information which they need, protracted and opaque processes for the negotiation of new access rights, and delays and inefficiencies in the approval procedures for new rolling stock. Although there have been some recent improvements in the way Railtrack deals with others following the national rail summits in February 1999, the company's dealings with its customers are often far from timely, transparent and co-ordinated. Railtrack's attitude in this respect is unacceptable and must change. It has to do better.
7. Since I took office four months ago, I have taken action in a number of areas relevant to this report. First, I have required and received from Railtrack information about its plans to provide adequate capacity for freight. Second, I have applied and increased pressure on Railtrack in relation to the rising trend of broken rails. Third, I have commenced enforcement action against Railtrack in relation to the shortfall in its passenger performance targets, and have today signed the enforcement order. Fourth, my office is auditing and monitoring Railtrack's compliance with its national track quality improvement programme. Fifth, I have taken enforcement action in relation to the provision of capacity studies and freight routing strategies on the West Coast Main Line.
8. Railtrack has under-delivered on the expectations placed on it at the time my predecessor set its access charges for the first control period beginning in April 1995. At that time, the company's access charges were set on the basis that Railtrack would discharge in full its public interest responsibilities, which include proper maintenance and timely renewal of the network. As a result of these new regulatory obligations, those charges were considerably higher than they would otherwise have been. In my December 1999 provisional conclusions (which form part of the periodic review of Railtrack's access charges) I shall be announcing what action I intend to take. I will also set out with greater precision what Railtrack is expected to deliver in the next charges control period.
9. I intend to go further.

10. I believe that in certain key respects Railtrack's network licence is not fit for purpose. It was granted in March 1994 on the express assumption that the company would remain in the public sector, with its directors appointed by and directly accountable to the Secretary of State. Railtrack was privatised in 1996 with substantially the same licence, and no appreciable change was made.
11. In September 1997, the network licence was strengthened by the amendment of Condition 7, which requires Railtrack to maintain, renew and develop the network in accordance with best practice, in a timely, efficient and economic manner so as to meet the reasonable requirements of its funders and customers. That was welcome, and it is the Condition 7 obligations which have enabled me to commence enforcement action against Railtrack in August and November 1999. However, in a number of other important respects, I believe Railtrack's network licence is not fit for its purpose and, with the exception of Condition 7, has remained one suitable only for a public sector company. These shortcomings must be remedied.
12. It is my intention to strengthen Railtrack's public accountability by amending its network licence, using the procedures in the Railways Act 1993. By making the improvements which this document outlines, the company will have greater clarity, stability and predictability in regulation. It will know far better what is expected of it, and so will its customers and those who rely on it. And it will know these things in advance and so be able to plan its business with confidence. By improving regulation in this way, we enhance its effectiveness and so facilitate the achievement of a better railway.
13. I am therefore today announcing the commencement of my first use of the licence modification procedure. My objective is to amend Railtrack's network licence to include three new conditions. The first concerns the establishment of a reliable and comprehensive asset database which covers all of Railtrack's network and the condition of its assets. The second will establish an efficient and effective regime for monitoring and reporting on the state of Railtrack's assets. The third concerns the establishment of a binding code of practice concerning Railtrack's dealings with its dependent customers.
14. The steps which I have already taken, together with the criticisms which the company has faced and the measures which I have today announced, should be enough for the company now to improve significantly on its care, maintenance and improvement of the network. These measures are aimed at making Railtrack a more reliable, responsible and effective steward of the national network. In achieving that end,

Railtrack will markedly improve its prospects of success in all it does, and, more importantly, will serve and promote the public interest. It will also facilitate the better achievement of public interest and legitimate commercial objectives by passenger and freight train operators, rolling stock manufacturers, freight facility developers and others in the railway industry.

15. I want and expect Railtrack to respond positively and constructively to these initiatives. However, if I am not satisfied with the company's response and its performance, I will not shrink from justified and proportionate use of the powers available to me. Railtrack now has the opportunity to demonstrate urgently and beyond doubt that it takes its public interest responsibilities every bit as seriously as the public which it was established to serve.

**TOM WINSOR**  
**Rail Regulator**

25 November 1999



# ***1. Introduction and executive summary***

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## **Scope of the document**

- 1.1 This document is the first part of the Rail Regulator's response to the report to him by Booz Allen and Hamilton Limited (Booz Allen) on Railtrack's performance in the current charges control period running from April 1995 to March 2001<sup>1</sup>. It also takes into account those elements of Railtrack's 1999 Network Management Statement (1999 NMS)<sup>2</sup> relating to the current control period, supplementary information supplied by Railtrack about freight capacity issues, and responses to the consultation by the Regulator on the Booz Allen report and the 1999 NMS<sup>3</sup>. In addition, it takes account of Railtrack's Reconciliation Statement<sup>4</sup>, published in July 1999, which reports on the extent to which it has progressed against plans set out in the 1998 NMS<sup>5</sup>.
- 1.2 This part of the response:
- (a) identifies areas where the Regulator considers that Railtrack has not met the expectations of it for the current control period in respect of the stewardship and operation of the rail network; and
  - (b) sets out the Regulator's requirements for remedial action where he considers that Railtrack has failed to meet its stewardship obligations.
- 1.3 The second part of the Regulator's response will be contained in the Regulator's provisional conclusions on the periodic review of Railtrack's access charges, to be published in December 1999. This will:

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<sup>1</sup> *Railtrack's Performance in the Control Period 1995-2001: Final Report*, Booz Allen & Hamilton Limited, London, March 1999 which can be seen on ORR's website (<http://www.rail-reg.gov.uk>) or in the ORR Library

<sup>2</sup> *Network Management Statement for Great Britain 1999*, Railtrack PLC, London, March 1999 which can be seen on Railtrack's website (<http://www.railtrack.co.uk>)

<sup>3</sup> Copies of responses to the Regulator's consultation on the Booz Allen report and the 1999 NMS may be seen in the ORR Library

<sup>4</sup> *Report of Progress against Plans set out in 1998 Network Management Statement - The Annual Reconciliation Statement*, Railtrack PLC, London, July 1999 which can be seen on Railtrack's website (<http://www.railtrack.co.uk>)

<sup>5</sup> *Network Management Statement for Great Britain 1998*, Railtrack PLC, London, March 1998 which can be seen on Railtrack's website (<http://www.railtrack.co.uk>)

- (a) quantify the extent to which the Regulator considers that Railtrack has failed (e.g. through under-delivery or inefficiency) to deliver the outputs which could reasonably have been expected of an efficient operator during the current control period, and the implications for charges in the next charges control period;
- (b) appraise Railtrack's expenditure plans for sustaining the network in the next price control period, and estimate the amount of access charges revenue necessary to pay for them. This will draw on a review of Railtrack's plans (and in particular the 1999 NMS), which is being carried out by Booz Allen for the Regulator;
- (c) set out the Regulator's expectations of the 2000 NMS; and
- (d) propose a framework for remunerating enhancement investment.

### **The Booz Allen and Hamilton report**

- 1.4 The previous Regulator commissioned consultants Booz Allen to advise on the extent to which Railtrack had met the regulatory expectations for the current control period, which runs from 1995 to 2001. On the basis of information supplied primarily by Railtrack, the report considered what Railtrack had done during the control period, what it had spent, what it should have delivered, and what a reasonable comparator would have done. Subsequently, the Regulator initiated a consultation exercise with train operators and funding bodies (the Franchising Director, whose office is now known as the Shadow Strategic Rail Authority (SSRA) and Passenger Transport Executives (PTE's) and passenger representative bodies the Central Rail Users' Consultative Committee (CRUCC) and the London Regional Passengers' Committee (LRPC) to help him establish whether the experience of consultees supported or contradicted the conclusions of the Booz Allen report. He also sought views from Railtrack.

### **Railtrack's 1999 Network Management Statement**

- 1.5 Condition 7 of Railtrack's network licence requires it to maintain, renew and develop the rail network to meet the reasonable requirements of train operators and funders, including PTEs and the SSRA. The 1999 NMS, which contains plans to spend £16 billion on sustaining the rail network and £11 billion on enhancing it over the next ten years, is Railtrack's own statement of how it expects to fulfil these obligations, and is intended to provide train operators and funders with the information they need to plan

their activities (current and future) with a reasonable degree of assurance. A key input into the 1999 NMS was the process which Railtrack agreed with the Regulator to put in place by which Railtrack establishes its view of the reasonable requirements of train operators and funders.

- 1.6 The areas covered by each NMS, and the time horizon of the plans it summarises, are set out by Railtrack in a 'form and period statement' approved by the Regulator. For the 1999 NMS, the Regulator agreed that the statement should cover a ten year period. Much of the 1999 NMS is therefore concerned with Railtrack's plans for the next control period, which the Regulator will address in his draft conclusions on the periodic review. However, it also sets out Railtrack's plans for the remainder of the current control period. To inform his conclusions on this aspect of the 1999 NMS, the Regulator asked train operators, funders and others a number of questions to establish whether they were content with the way in which Railtrack had identified and was meeting their reasonable requirements.

### **Regulator's findings**

- 1.7 The Booz Allen report identifies a number of areas where the consultants consider that Railtrack, in carrying out its stewardship obligations, has failed to deliver what might reasonably have been expected of an efficient operator. These messages have been reinforced by responses from train operators, funders and others to the consultation exercise on the 1999 NMS and the Booz Allen report, and by analysis done by the Office of the Rail Regulator, (ORR). As a result, the Regulator has identified a number of immediate actions that Railtrack needs to take. In addition, he will be quantifying the extent of under-delivery and addressing this in the second part of his response to the Booz Allen report. The Regulator's conclusions on immediate actions, and his reasons for them, are summarised in paragraph 1.8 below, and set out in detail in the chapters which follow.

### **Regulatory action: key points**

- 1.8 As a result of the Regulator's findings, he has already taken action in a number of areas, and has concluded that further action will be needed in others in the very near future. These steps are set out in detail in the chapters which follow. In summary, the key actions are, in respect of:

- (a) **performance** (Chapter 2), that:

- (i) Railtrack should be required to reduce delays to passenger trains by 12.7% between 1 April 1999 and 31 March 2000. The Regulator made a final order to this effect under section 55 of the Railways Act 1993 on 25 November 1999
  - (ii) in advance of the publication of the 2000 NMS due in March 2000, the Regulator should establish with Railtrack firm targets for reducing delays which it causes to passenger and freight trains for the year beginning 1 April 2000.
- (b) **asset management** (Chapter 3), that:
- (i) Railtrack should be required, through a modification of its network licence, to establish a register of the nature and condition of key asset categories, and to populate that register with data;
  - (ii) Railtrack should finalise broad measures of the condition of major asset categories in time for these measures, with supporting data where available, to be incorporated in the 2000 NMS, and to remedy any gaps in supporting data in time for the 2001 NMS;
  - (iii) Railtrack should develop reliable data on the capability of the network, including the gauging of specific routes, both to inform its own plans for the development of the network and to provide its customers with accurate and timely advice on the ability of the network to meet their requirements and to cope with both redeployment of existing stock and new rolling stock; and
  - (iv) the Regulator should establish a system of reporters to verify asset condition data and to provide independent reports to the Regulator on the serviceability and condition of Railtrack's network assets, in ways similar to reporters in the water industry working at the behest of the Director General of Water Services.
- (c) **track quality** (Chapter 4), that Railtrack should:
- (i) by the end of 1999 provide train operators with details of the track quality improvement programme which the first Regulator required Railtrack to undertake. The Regulator will assess the adequacy of the

scope of this programme in the light of advice from the consultants he has commissioned;

- (ii) continue to meet any additional reasonable requirements of train operators and funders for track quality improvements to the greatest extent reasonably practicable in accordance with Condition 7 of its network licence; and
  - (iii) take urgent steps to reduce to the greatest extent reasonably practicable the number of broken rails. The Regulator has required Railtrack to provide more information on its plans to achieve this and will consider their adequacy in the light of consultation with the Health and Safety Executive (HSE).
- (d) **freight** (Chapter 5), that Railtrack should:
- (i) by 29 February 2000, complete a freight routing strategy in respect of origins reached on or via the West Coast Main Line, including costed specifications, for meeting in full the ten year projections of freight operators. The Regulator published a draft final order to this effect on 5 November 1999; and
  - (ii) by a date to be determined by the Regulator provide substantially the same level and quality of information to that required in respect of the West Coast Main Line, in respect of destinations reached on or via other key routes, including the East Coast Main Line, the Great Western Main Line, the North London Line, the Glasgow and South Western Line, the Midland Main Line, the routes between London and the Channel Tunnel, Felixstowe and the Midlands, Southampton and the Midlands, connections between Southampton and the West Coast Main Line and routes via Birmingham connecting Derby to Reading and Bristol.
- (e) **stations** (Chapter 6), that any under-delivery by Railtrack against the backlog of works it was funded to do should be taken into account in allowable revenues for the next price control period;
- (f) **relations with dependent customers** (Chapter 7), that:

- (i) Railtrack should be required, through a modification of its network licence, to develop and then comply with an enforceable code setting out best practices in the way Railtrack deals with its customers. The Regulator will publish the proposed modification shortly;
- (ii) before the end of 1999, Railtrack should finalise and publish its procedures for facilitating the procurement of works, and for making its costs transparent;
- (iii) the Regulator, in his December 1999 provisional conclusions document, will set out the principles which he expects Railtrack to comply with in pricing enhancements for its customers, including the way in which overheads should be assessed;
- (iv) Railtrack should continue to provide quarterly reports on its progress in meeting the reasonable requirements of its customers, including the completion of feasibility studies where these are necessary to establish whether a requirement is practicable. The Regulator looks to Railtrack's customers to let him know if their account planning arrangements are not working, or if Railtrack is failing to meet their reasonable requirements to the greatest extent reasonably practicable;
- (v) the Regulator will consider whether Railtrack should be required to compensate train operators for all possessions, and to pay higher compensation, in order to incentivise Railtrack to optimise the efficient use of possessions<sup>6</sup>.
- (vi) Railtrack should co-ordinate a debate within the industry about best practices in the management of possessions, and should produce proposals for spreading best practice across the network by 31 March 2000; and
- (vii) in order to improve advance information to passengers, the Regulator modified the licences of Railtrack and train operators on 17 May 1999 to require them to make available information on planned changes to train services arising from possessions and other causes at least 12 weeks in advance. The Regulator has taken and will continue to take action to ensure compliance as necessary.

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<sup>6</sup> *The periodic review of Railtrack's access charges: The incentives framework – A consultation document*, Office of the Rail Regulator, London, October 1999 which can be seen on ORR's website (<http://www.rail-reg.gov.uk>) or in the ORR

## 2. *Performance*

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### Background

- 2.1 Delays to trains arise from a number of causes, some the responsibility of Railtrack, and some the responsibility of train operators. In its 1998 NMS, Railtrack set itself targets to reduce delays for which it was responsible (such as those arising from infrastructure failures) over the three years from 1998/99 to 2000/01.
- 2.2 In response, a number of train operators and funders expressed concern about the unambitious nature of the performance targets (e.g. a reduction in minutes delay per passenger train movement of just 3.2% over the year to 31 March 1999), particularly as Railtrack had set itself higher internal targets (a 7.5% reduction for passenger delays). Freight operators also complained about the lower targets set for reductions to freight train delays.

### 1999 NMS

- 2.3 Following discussions with the Regulator, Railtrack set separate targets of 7.5% for reductions in minutes delay per train to passenger and freight trains during 1998/99. In addition to amending the 1998 targets, Railtrack also agreed to develop revised performance targets for the 1999 NMS, and to publish these by 15 January 1999. Accordingly, on 15 January 1999 Railtrack announced that it had passenger targets of a further 7.5% improvement in passenger and freight performance in the year from 1 April 1999 to 31 March 2000. These were reiterated in the 1999 NMS itself.
- 2.4 By this time, it had become clear that Railtrack would fail to reach the passenger target it had set for itself by 31 March 1999. When the final figures became available, Railtrack reported that it had only managed to reduce passenger minutes delay per train by 2%, although it had exceeded its target for reducing freight delays. The Regulator indicated that he expected Railtrack to make good the shortfall by 31 March 2000, in addition to the further reduction of 7.5% to which Railtrack had committed itself. Railtrack failed to commit to recover the shortfall by 31 March 2000, and offered instead to make good the shortfall by 31 March 2001.

### Booz Allen report

- 2.5 The Booz Allen report noted that, in terms of service delivery to customers, network performance was Railtrack's principal measurable output. It noted that there had been

a significant improvement in Railtrack's recorded performance during 1996/97 by comparison with 1995/96, but little reduction since then despite greater management focus and process improvements.

### Feedback from consultees

- 2.6 In relation to the Booz Allen report, train operators and funders were asked whether they considered that Railtrack's achievement in terms of train punctuality and reliability reflected significant improvements in its efficiency and effectiveness of operation. A number of train operators and funders also commented on performance when responding on the 1999 NMS. There was a general view that Railtrack should have been able to sustain its performance improvements beyond 1996/97. Train operators reported that there had been improvements in some areas, but that other areas had experienced a deterioration in performance. The broad picture was one of inconsistent performance both in terms of geographical areas and over time.

### Regulator's findings

- 2.7 In a statement published on 19 August 1999<sup>7</sup>, the Regulator said that he had concluded that Railtrack was likely to contravene the obligations in Condition 7 of its network licence if it did not make good in the current year (1999-2000) the shortfall in its achievement against its 1998-99 performance target and achieve its 1999-2000 7.5% target. Accordingly, on 19 August 1999 the Regulator gave notice that he proposed to make a final order under section 55 of the Railways Act 1993, requiring Railtrack to reduce minutes delay per passenger train (attributable to Railtrack) by a cumulative total of 14.4% over the period from 1 April 1998 to 31 March 2000 (i.e. to achieve a 12.7% reduction in 1999-2000), in default of which Railtrack would have to pay a monetary penalty of £400,000 for each one tenth of a percentage point by which it failed to meet the target. Full details are set out in the statement published on 19 August 1999.
- 2.8 Representations were received from 11 organisations during the period specified by the Regulator. These included one objection (from Railtrack) and three confidential representations. In addition a further representation from the HSE was received on 19 November 1999<sup>8</sup>.

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<sup>7</sup> *Railtrack's Performance Targets: Statement by the Rail Regulator*, Office of the Rail Regulator, London, August 1999, which can be seen on ORR's website (<http://www.rail-reg.gov.uk>) or in the ORR Library

<sup>8</sup> Copies of the non-confidential representations have been placed in the ORR Library



## **Regulatory action**

- 2.9 Following careful consideration of the representations and objection, the Regulator has made and published the order with minor modifications on 25 November 1999<sup>9</sup>. The reasons for his decision will be published in a separate document.
- 2.10 The Regulator has also concluded that, in advance of the publication of the 2000 NMS, he should establish with Railtrack firm targets in respect of the year beginning 1 April 2000 for reducing delays which it causes to passengers and freight trains.

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<sup>9</sup> A copy of the final order has been placed on the ORR public register.



### 3. *Asset management*

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#### Introduction

3.1 A number of issues arising from Railtrack's management of its assets have arisen from the 1999 NMS, the Booz Allen report, and consultation upon them. In particular, these include concerns that:

- (a) Railtrack has not yet completed the development and population of a comprehensive database containing details of Railtrack's network assets and their condition. Nor has it developed an adequate range of measures based on condition data. ORR has been pressing Railtrack for a considerable period to develop a better understanding of the condition and capability of its assets. The Regulator believes that reliable information on condition is a prerequisite for the efficient management of the business, and is therefore necessary to secure compliance with the network licence obligation in relation to the carrying out of maintenance and renewals work in accordance with best practice, and in a timely, economic and efficient manner. Reliable and comprehensive measures are vital to effective regulatory monitoring of Railtrack's performance;
- (b) Railtrack's maintenance and renewal policies appear to be unduly focussed on the short term. Moreover, the apparent shift in Railtrack's maintenance and renewal strategy towards targeted renewals of individual components and sub-systems as an alternative to comprehensive renewal of systems may not be based on a sound understanding of the condition of the assets, and may have repercussions for the long-run health of the assets; and
- (c) Railtrack does not yet have reliable and comprehensive data on the capability of its network. The Regulator considers that an effective strategy for developing the network needs to be informed by reliable data on its capability. For instance, Railtrack's customers have a right to expect accurate and timely advice on the ability of the network to handle new rolling stock or changes in rolling stock deployment.

3.2 These concerns also apply to Railtrack's plans for the next control period, and to the extent and efficiency of delivery in the current control period. As noted in Chapter 1 above, the Regulator is reviewing Railtrack's expenditure plans for the next control

period, and is considering the treatment of under-delivery in the current control period. Draft conclusions on both these points will be published in the Regulator's provisional conclusions on the periodic review of Railtrack's access charges in December 1999. This document sets out the action which the Regulator requires Railtrack to take now, and summarises proposals to require Railtrack to establish a proper basis for monitoring and managing the condition of its assets, and to advise train operators, funders and others of their capability.

## **Knowledge of asset condition**

### *Background*

- 3.3 The development of meaningful asset condition measures varies in its complexity and has been shaped by monitoring systems inherited from past industry practices. For some types of asset (such as track and structures), certain condition information has routinely been collected for many years, and used to manage maintenance and renewals. In other cases, condition data has not been systematically gathered in the past, partly because asset management has depended on standard maintenance cycles and reaction to faults and failures. Signalling and control systems are an example of this approach. Even where information does exist it remains very difficult to generate an overall picture of the state of the network, as data often exists in different formats and multiple locations, and is of varying quality. In many cases Railtrack has relied upon its contractors to hold the data and says that it does not itself have the information. This is an extraordinary and unsustainable state of affairs.

### *1999 NMS*

- 3.4 In discussions before the 1999 NMS was published, Railtrack told the ORR that it was having difficulty developing measures of the condition of certain types of asset, such as structures, signalling and electrification equipment. Consequently, in approving the form and period statement for the 1999 NMS, the Regulator agreed that, pending the development of more representative measures, measures of the condition of structures, signalling and electrification equipment should be confined respectively to the number of temporary speed restrictions arising from the condition of structures, repeat failures and the number of incidences where overhead wires became misaligned. In the 1999 NMS, Railtrack acknowledged that it had not made the progress it had hoped in developing a register of asset condition, but explained that this was due to its not having enough resources to do the job because people were instead working to ensure that other systems were Year 2000 compliant.

### *Booz Allen report*

- 3.5 Booz Allen noted that while Railtrack had inherited relatively poor data on asset condition, it had failed to match the achievements of other utilities in developing better asset information systems and asset management systems. Booz Allen said that little progress had been made to date, and that development of a reliable database of information should be a high priority for Railtrack.

### *Railtrack's response to the Booz Allen report*

- 3.6 In its response, Railtrack acknowledged that work was needed to improve its knowledge of asset condition, but stated that it had sufficient information to plan timely renewals of key assets and safety critical systems. Railtrack explained that much of the information was held at local level (often by Railtrack's contractors), and that work was under way to develop asset condition systems which better capture this information, and which will in future provide more robust asset management processes. Railtrack has subsequently briefed ORR on its plans for a new asset register and related management information systems.

### *Regulator's findings*

- 3.7 The Regulator considers that Railtrack needs a firm timetable to create a comprehensive database of asset condition to ensure that its asset management strategies are soundly based, and appropriate measures of asset condition, based on this data, in order that:
- (a) Railtrack possesses and uses the information it needs to maintain and renew the network in accordance with best practice, and in a timely, economic and efficient manner, as Condition 7 of its network licence requires; and
  - (b) the Regulator has the information he needs to monitor Railtrack's compliance with its network licence obligations, and to assist in keeping Railtrack's expenditure requirements under review.
- 3.8 Whilst Railtrack has made some progress in assessing the condition of certain assets, the Regulator is not satisfied with its progress in developing and implementing methodologies to measure asset condition across the whole, very diverse, range of assets which comprise the network. This is particularly true of measures of the condition of signalling and structures, and electrification and telecommunications equipment, all of which are essential to the operation of a safe and reliable rail network. He has not seen evidence to demonstrate that the quality of that information

is adequate. He also considers that, at present, data on asset condition is distributed too widely amongst zones and contractors to allow it to be retrieved easily by those taking decisions on asset management or to enable meaningful overall measures of condition to be provided.

## Regulatory action

3.9 For these reasons, the Regulator has concluded that:

- (a) Railtrack should be required, through a modification of its network licence, to establish a register of the nature and condition of key asset categories, and to populate that register with data;
- (b) Railtrack should finalise broad measures of the condition of major asset categories in time for these measures, with supporting data where available, to be incorporated in the 2000 NMS, and to remedy any gaps in supporting data in time for the 2001 NMS; and
- (c) The should establish a system of reporters to verify asset condition data and to provide independent reports to the Regulator on the serviceability and condition of Railtrack's network assets, in ways similar to reporters in the water industry working at the behest of the Director General of Water Services.

## Railtrack's renewal practices

### *Background*

3.10 It is clear from the 1998 and 1999 NMS that Railtrack is changing its maintenance and renewal strategy, and, in some asset groups, is focussing on maintenance and partial renewal rather than full-scale renewal. This approach is particularly marked in the case of signalling, where plans for several large projects reported in the 1997 and 1998 NMS are reported to have been deferred in the 1999 NMS, or have disappeared altogether. Both train operators and Booz Allen have commented on the implications of this change in Railtrack's strategy.

### *1999 NMS*

3.11 In the 1999 NMS, Railtrack said that its policy was to renew assets with the most appropriate, contemporary equipment available which minimises whole-life costs and minimises the disruption caused by installing the equipment. In relation to specific asset categories, Railtrack said that planned track renewal volumes reflect its current

understanding of future traffic volumes and flows. It also said that the whole-life cost of signalling assets is optimised through targeted renewals rather than renewal of entire installations. In relation to electrification assets, Railtrack says it is working to develop software-based tools for optimising maintenance and inspection periodicity.

### *Booz Allen report*

3.12 Booz Allen looked at the effectiveness of Railtrack's maintenance and renewal practices, whether renewals had been in modern equivalent form, the volume of renewals against what might be expected, and what conclusions could be drawn about the adequacy of Railtrack's stewardship of network assets. Booz Allen concluded that, in relation to:

- (a) the effectiveness of Railtrack's track maintenance and renewal practices, several measures of track condition raised concerns, including track quality measures and the growing number of broken rails on some of the more heavily trafficked zones (see Chapter 4);
- (b) track, signals and structural assets, where renewals had occurred, these were generally in modern equivalent form. However, Booz Allen considered that the piecemeal approach which Railtrack had taken to the renewal of station assets made renewal in modern equivalent form difficult; and
- (c) the volume of renewals, Booz Allen noted that the average age of continuously welded rail (CWR) was expected to increase by 3.7 years over the control period, and by 4 years in the case of CWR sleepers. It noted that track renewal volumes had been low by comparison with other European railways, and that signalling renewals had also been scaled back in favour of life extensions. It concluded that, insofar as track and signalling assets are concerned, continuation of current rates of renewal would raise concerns about Railtrack's long-term stewardship of the network, as there would be a risk of declining quality and the emergence of a significant renewals backlog.

3.13 Booz Allen has suggested that the growing tendency on the part of Railtrack to substitute partial renewal of components for whole-scale renewal of equipment may be prejudicial to the long-term health of network assets. The consultants noted that although in some cases Railtrack has spent more than originally contemplated in its asset management plans, the volume of work undertaken has been less than planned.

*Railtrack's response to the Booz Allen report*

- 3.14 In response to the concern expressed by Booz Allen about the change in Railtrack's renewals strategy, Railtrack pointed out that it had moved from an age-related renewal policy to one based primarily on asset condition, and that this offered better value for money and can reduce disruption to customers and passengers.

*Feedback from consultees*

- 3.15 The HSE noted that it was imperative that any shift to a reactive maintenance/replacement regime should be supported by good quality information on assets and their condition, if it is to be effective and continue to ensure the safety of the asset. The HSE said that it would be concerned if Railtrack was concentrating on short-term remedial work rather than long-term asset condition, since it could lead to gradual erosion of safety standards.

- 3.16 Train operators have expressed concerns that:

- (a) the volume of renewals is well below that which could be expected, and an increase in expenditure is required to ensure that the assets are capable of delivering improving punctuality and reliability because traffic has grown and is continuing to do so;
- (b) by prolonging the life of existing assets based on outdated technology, Railtrack is deferring the opportunity of procuring the additional outputs offered by new technology; and
- (c) Railtrack takes a minimalist approach to renewals, missing the opportunities offered to enhance outputs, and setting unsatisfactory standards which do not reflect modern expectations.

- 3.17 The LPRC expressed deep concern that Railtrack appears to be adopting a 'patch and mend' approach, and the CRUCC also expressed concern that the 1999 NMS made little mention of signalling renewal schemes. A number of respondents also made specific points about renewals work at stations; these are summarised in Chapter 6.

*Regulator's findings*

- 3.18 The Regulator considers that the way in which Railtrack meets the obligation in Condition 7 of its network licence to maintain and renew the rail network is primarily a matter for the management of the company provided it meets that obligation.



However, he believes that the changes in the balance between maintenance and renewals raise three concerns:

- (a) first, in the long run, it may not be the most efficient approach despite the short-term benefits to Railtrack;
- (b) second, the long-term health of the network may suffer as the age of assets increases, leading to the build-up of a substantial renewal commitment at a later stage; and
- (c) third, piecemeal renewal delays the opportunities for improving the network in the course of implementing more substantial renewals.

3.19 The Regulator recognises that, in some circumstances, it may make financial sense to renew assets in part rather than in their entirety. However, given that Railtrack's understanding of the condition of its own assets is not comprehensive, there is a risk that sub-optimal decisions on maintenance and renewal will be taken because of inadequate condition data.

#### *Regulatory action*

3.20 The Regulator believes that the action he is requiring Railtrack to take on improving asset condition information (see paragraph 3.9 above) will help to demonstrate the extent to which Railtrack's renewal practices are adequate. He has asked Booz Allen to examine whether Railtrack's expenditure requirements for the next control period are soundly-based. He will be considering whether any further action on Railtrack's policies is required in the light of the current Booz Allen study on plans for the next control period.

3.21 The Regulator will assess whether Railtrack has fulfilled or under-delivered against its obligations in the current control period for timely renewal of its assets in modern equivalent form as part of the periodic review, and will publish his provisional conclusions in December 1999. He will take into account any under-delivery when taking decisions on Railtrack's revenue requirements as part of the periodic review.

3.22 In relation to the next control period, the Regulator considers that greater clarity is required about the outputs Railtrack should deliver as part of its ongoing maintenance and renewal strategy. He notes that the SSRA is setting out its expectations of Railtrack in output statements in respect of each major route on the network. The

Regulator is due to reach final conclusions on access charges in July 2000, taking into account advice from the SSRA on its expectations for the next control period.

## **Railtrack's knowledge of its network capability**

### *Background*

- 3.23 Railtrack's 1998 NMS contained maps which showed various aspects of the rail network's capability: line speed, permitted axle weights, loading gauge and the extent of electrification.

### *1999 NMS*

- 3.24 Prior to publication of the 1999 NMS, Railtrack agreed that it would contain a variety of measures of capability, and would also set out the number of route kilometres not gauged. The 1999 NMS contained maps similar to those published in the 1998 NMS, although Railtrack claimed that these were more accurate than those in the 1998 NMS. However, Railtrack pointed out that information on loading gauges (the maximum height and width of trains which can travel over particular parts of the network) was subject to a full gauging analysis, for which it could not give a firm timescale. Accordingly, the 1999 NMS did not contain figures for the number of route kilometres not gauged.

### *Feedback from interested parties*

- 3.25 Although consultees on the 1999 NMS and the Booz Allen report were not asked to comment on the availability of gauging data, a number of industry parties have expressed concern about Railtrack's inability to provide timely and accurate advice on the capability of the network. These include rolling stock manufacturers and passenger operators seeking to introduce new rolling stock, and freight operators seeking to run trains of particular dimensions on the network. These echo concerns, expressed by the SSRA, that since taking over the rail network five years ago, Railtrack has failed to develop either a gauging strategy or a comprehensive gauging database.
- 3.26 As indicated in paragraph 3.1 above, the Regulator considers it essential that Railtrack should have reliable data on the capability of the network, including the gauging of routes, both to inform its own plans for the development of the network, and to provide its customers with accurate and timely advice on the ability of the network to handle both redeployment of existing stock and new rolling stock. He is aware of concerns expressed by train operators and rolling stock manufacturers that data

presently available from Railtrack is not sufficiently comprehensive to enable them to obtain timely and accurate information about the constraints on running new services or existing services with new rolling stock. Nor is he satisfied that Railtrack has firm plans for completing and maintaining an interrogatable database of gauging information within a reasonable period.

### **Regulatory action**

3.27 The Regulator has concluded that Railtrack must be required to take early action to remedy the lack of sufficient information about the capabilities of the network. Accordingly, shortly he intends to publish and consult upon amendments to Railtrack's network licence which would require it to:

- (a) establish and populate a database of network capability, describing the nature of relevant assets and their relationship (in matters such as gauge, clearances and electro-magnetic characteristics) with other relevant fixed and moving assets and rolling stock; and
- (b) provide timely advice to train operators, rolling stock manufacturers and others on the implications of network capability for new rolling stock, freight terminals, the cost of network enhancements, and other requirements.



## 4. *Track quality*

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### Introduction

4.1 In recent years, two specific concerns have arisen about track quality:

- (a) a downward trend in the quality of track geometry during 1995 and 1996, indicated by the percentages of track which met Railtrack's standards for horizontal and vertical alignment. The Regulator regards track geometry not only as a direct indicator of Railtrack's contribution to the quality of ride delivered by train operators to their customers, but also as an important proxy measure for the condition of the track components; and
- (b) a significant increase in the incidence of broken rails over the last two years which would appear to indicate that Railtrack's maintenance and renewal work is not keeping pace with the ageing of the network and the growing volumes of traffic which have led to increased wear and tear.

4.2 While the ORR's primary remit is to address the implications of these issues for the adequacy of Railtrack's maintenance and renewal programmes, it has kept in close touch with the HSE, which is the primary regulator of safety of the railways.

### Track geometry

#### *Background*

4.3 The need for Railtrack to stem the decline in the quality of track geometry was addressed in the Regulator's response to the 1998 NMS<sup>10</sup>. As a result of this, Railtrack committed to eliminate to the extent reasonably practicable the amount of track which failed to meet Railtrack's 100% standards for track geometry, whilst ensuring that the amount of track meeting the 50% and 90% standards did not fall below the levels attained on 1 April 1994. ORR's consultants are currently auditing the adequacy of Railtrack's track quality improvement programme and monitoring its implementation.

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<sup>10</sup> *Rail Regulator's review of Railtrack's 1998 Network Management Statement*, Office of the Rail Regulator, London, July 1998, which can be seen on ORR's website (<http://www.rail-reg.gov.uk>) or in the ORR Library

### *1999 NMS*

- 4.4 The NMS set out forecasts for improvements to track geometry, but neither it nor the Reconciliation Statement report on the progress of the track quality improvement programme as such, although expenditure figures in the Reconciliation Statement indicate that expenditure on track renewals for the year ended 31 March 1999 was broadly in line with 1998 NMS estimates set before the track quality improvement programme was introduced.

### *Booz Allen report*

- 4.5 The Booz Allen report notes the decline in track quality which occurred in 1995/96. It points out significant variations over time and between Railtrack zones. It considers that continuation of current rates of renewal of each track asset category would raise concerns about Railtrack's long-term stewardship of the network as there would be a high risk of declining quality and the emergence of a significant renewals backlog.

### *Railtrack's response to the Booz Allen report*

- 4.6 Railtrack acknowledges that the average age of track is increasing but contends that it is capable of safe and reliable operation for many years. It points out that maintenance expenditure is higher than the Regulator originally allowed for and rejects the claim that it is taking a short-term approach to renewal. Railtrack notes that, in response to commitments given to the Regulator in July 1998, it has put in place a track quality improvement programme designed to deliver further improvements in standards by April 2001.

### *Feedback from consultees*

- 4.7 A number of train operators have indicated continuing concerns about the quality of track on routes which they use. Some failed to reach agreement with Railtrack on what they considered to be their reasonable requirements. The HSE pointed out that the degradation of track quality has the potential to erode safety margins, and noted that it had been undertaking its own project to gather information on the extent to which track quality is being assessed and maintained, and to identify any implications for passenger safety.

### *Regulator's findings*

- 4.8 The Regulator notes the concerns expressed by Booz Allen as to whether the volume of track renewals planned for the current control period is adequate, and has asked the

consultants to advise whether, in their opinion, Railtrack's plans for renewals in the next control period are adequate.

### *Regulatory action*

#### 4.9 The Regulator requires Railtrack:

- (a) by the end of 1999, to provide train operators with details of its track quality improvement programme. In the meantime, he is assessing the adequacy of the programme in the light of a consultant's report due later this month; and
- (b) to continue to meet any additional reasonable requirements of train operators and funders to the greatest extent reasonably practicable in accordance with Condition 7 of its network licence.

### **Broken rails**

#### *Background*

4.10 It is inevitable that broken rails will occur from time to time on the network. However, the number of rail breaks does serve as an indicator of the adequacy of Railtrack's track maintenance and renewal practices. A significant increase in the number of broken rails in 1998/99 has given rise to concern in this respect.

#### *1999 NMS*

4.11 Railtrack's 1999 NMS forecast that the number of broken rails in 1998/99 would considerably exceed the estimate in the 1998 NMS, but even the revised figure of 836 (published in March 1999) proved to be a serious under-estimate. The actual number was 937. In May 1999, concerned at rail conditions in the Severn Tunnel, HM Railway Inspectorate imposed emergency speed restrictions until rail in the tunnel had been replaced.

#### *Booz Allen Report*

4.12 Booz Allen noted that indicators of asset health, such as broken rails, would need to be monitored closely as the average age of track assets was increasing. Further, Railtrack's focus on rail replacement seemed to be at the expense of under-delivery of renewals of sleepers and track ballast against Railtrack's own targets.

### *Feedback from consultees*

- 4.13 The HSE advised that it was pursuing urgently with Railtrack the actions which Railtrack would be taking to reduce the number of rail breaks which have increased significantly over the last year.

### *Railtrack's response*

- 4.14 In response to concerns expressed by the Regulator arising from the increase in rail breaks in 1998/99 and the problems with track condition in the Severn Tunnel, Railtrack has explained what it considers to be the underlying causes of the recent increase in broken rails. Railtrack believes that significant increases in the number of trains and tonnage using the network, and an apparent increase in wheel flats and poor vehicle maintenance, are major contributory factors. However, it also admits that track maintenance has not always kept pace with traffic growth on some routes. It also cited the presence of some rail on high tonnage routes which is nearing the end of its life and the reductions in track quality as contributory factors.

### *Regulator's findings*

- 4.15 Both the Regulator and the HSE believe that Railtrack must reduce the incidence of broken rails. The Regulator considers that he requires more information from Railtrack before he can assess whether Railtrack's plans to do this are adequate to comply with its network licence obligations.

### *Regulatory action*

- 4.16 The Regulator has written to Railtrack requiring it to supply information on its plans, and monthly reports to monitor trends, as well as historical comparative data. He is also requiring Railtrack to substantiate its view that inadequate wheel and vehicle maintenance is a major contributory factor to the increase in rail breaks. He will consider whether further action is required in the light of that information and after consultation with the HSE. These steps do not, of course, prejudice any separate action that the HSE may require Railtrack to take on safety grounds.



## 5. *Freight*

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### *Background*

- 5.1 In September 1997, the Regulator published '*Regulatory Objectives for Rail Freight*'<sup>11</sup> setting out his expectation that Railtrack would develop a comprehensive freight strategy, including in relation to the way in which it would meet the capacity needs of freight, and its routing strategy. In its 1998 NMS, Railtrack said that it had started work on a freight routing strategy, including the development of key routes.

### *1999 NMS*

- 5.2 Concerned at the slow progress Railtrack was making, ORR held further discussions with Railtrack prior to the publication of the 1999 NMS. These discussions were reflected in Railtrack's statement on the form and period of the 1999 NMS, which said that the NMS would contain:

‘a Freight Routing Strategy setting out the capacity of the current network to convey our actual or potential customer projected train movement by ‘first choice’ route during the period of the Statement and where this demand cannot be met how this will be resolved and the timescales concerned. Where it is reasonable to conclude that accommodation on ‘first choice’ routes is not possible or desirable given other likely demands on the routes concerned, [this will] include the results of examination of the availability of alternative lines of route; indicate Railtrack’s policy and plans for assuring itself that it has maximised the ability of the network to meet the requirements of current and potential freight operators and funders, utilising the potential capacity of all reasonably practicable routes’<sup>12</sup>.

- 5.3 When the 1999 NMS was published, it said, amongst other things, that Railtrack could meet the growth forecast by freight operators within existing capacity and planned investment on the majority of its route groups for the next ten years, and, on the remaining route groups, for the next five years. The NMS also said that proposals would be developed to meet additional demand of some of these remaining route groups, including the West Coast Main Line, the East Coast Main Line, the

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<sup>11</sup> *Regulatory Objectives for Rail Freight*, Office of the Rail Regulator, London, September 1997, which can be seen on ORR’s website (<http://www.rail-reg.gov.uk>) or in the ORR Library

<sup>12</sup> The *Form and Period Statement of the 1999 NMS* was written by Railtrack and approved by the Regulator in March 1999. It is available in the ORR Library

Felixstowe to Midlands route, the Channel Tunnel to London, and routes around London.

5.4 In the light of comments from industry parties and analysis by the ORR, the Regulator's preliminary conclusion was that the NMS did not demonstrate a coherent and deliverable strategy to meet the reasonable requirements of freight operators. In particular, he was concerned about:

- (a) the robustness of the statements made about the availability of capacity for freight;
- (b) the absence of any costed options for operational and infrastructure modifications required to deliver the freight routing strategy; and
- (c) the robustness of the information provided on the gauging of routes and on plans to enhance this gauging.

5.5 The Regulator therefore wrote to Railtrack on 12 July 1999 asking a series of questions intended to ascertain the extent to which the statements in the 1999 NMS were supported by detailed analysis, research and evidence<sup>13</sup>. He also invited comments from interested parties on Railtrack's reply<sup>14</sup>.

#### *Feedback from consultees*

5.6 Freight operators were not reassured by Railtrack's plans to meet projected freight demand. English Welsh and Scottish Railway Limited said that Railtrack's answers to the Regulator's questions did not reassure the industry that it had robust plans in place to meet future requirements for growth and capability, and served to confirm that they did not understand the capability of its network. Freightliner Limited noted that, despite undertaking timetabling exercises on the most congested parts of the network, the only results produced had been in respect of the West Coast Main Line and these were manifestly unsatisfactory. Freightliner wanted Railtrack to speed up the development of plans for routes which were key to its business, and also expressed concern that the timetable envisaged by Railtrack for gauge improvements could lose Freightliner both new and existing business.

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<sup>13</sup> Letter from the Rail Regulator to the Chief Executive of Railtrack, dated 12 July 1999. A copy has been placed in the ORR Library

<sup>14</sup> *1999 Network Management Statement - Railtrack's Freight Strategy*. Railtrack's response to the letter of 12 July 1999 from the Rail Regulator, Railtrack PLC, London, August 1999. A copy has been placed in the ORR Library )

- 5.7 Potential funders of improvements to the freight infrastructure were also disappointed. The Department of the Environment, Transport and the Regions (DETR) noted that it had invited Railtrack to discuss in more detail its proposals for W10 gauge enhancements to the Southampton-Midlands and Felixstowe-Midlands routes in particular and how the timetable for these enhancements – shown as 2004 in the 1999 NMS – might be brought forward and an early freight grants application made. DETR expressed disappointment that Railtrack did not appear to have made any significant progress in working up its proposals for these enhancements.
- 5.8 The SSRA, which intends to address the development of the freight market as part of its strategic plan, considered that a credible freight strategy should include coherent proposals for routing freight on the network, a programme of capacity enhancement to accommodate growth as required, and proposals for where and when gauge enhancement is needed, each worked up to a level of detail demonstrating cost, outputs and feasibility. Like the SSRA, the Rail Freight Group (a body representing freight users and others), was concerned that Railtrack had not reached agreement on plans for developing the most important freight routes on the network.

#### *Regulator's findings*

- 5.9 The Regulator has considered the responses to his consultation, and has also noted that Railtrack does not appear to have developed the proposals it said it would for routes which the 1999 NMS said could not accommodate projected demand beyond 2005 (see paragraph 5.3 above). He has concluded that:
- (a) it is essential that, as the monopoly controller of the network, Railtrack should understand the capability of the network and how it could be developed to meet the projected demands of its customers. On the evidence available to him, he is not satisfied that Railtrack has demonstrated to its customers or funders how it could meet these projected requirements;
  - (b) given the lengthy lead times for significant railway infrastructure enhancement, it is unacceptable that Railtrack should not have commenced adequate planning to allow it to implement capacity enhancements which may be required from 2005. This information is needed by both freight operators and funders to assess the feasibility and fundability of those capacity enhancements; and
  - (c) it is a reasonable requirement of both freight operators and potential funders that Railtrack should develop robust costed plans to meet prospective

increases in demand, in order that they can plan the future of their businesses with a reasonable degree of assurance.

- 5.10 The Regulator notes that Railtrack says that it doubts the credibility of the forecasts of future demand for capacity made by freight operators, citing slower than forecast growth in carriage by rail of non-traditional commodities. If Railtrack considers that the level of demand projected for 2005 or 2009 may take longer to materialise, it has the responsibility as operator of the network to demonstrate convincingly to those who would fund additional capacity (including train operators and funders) that this is more likely than the original time-frame. In these circumstances, the Regulator would be prepared to consider proposals for plans to meet intermediate capacity requirements. Pending this, he sees no reason why Railtrack should not be required to demonstrate how it would meet the forecasts made by its customers.

#### *Regulatory action*

- 5.11 Accordingly, the Regulator:

- (a) has published a draft final order requiring Railtrack to complete a freight routing strategy, including costed specifications, for meeting in full the ten year projections of freight operators in respect of origins reached on or via the West Coast Main Line<sup>15</sup>.
- (b) will require Railtrack to provide to train operators and funders, by a date which he will determine, substantially the same quality and level of information about Railtrack's freight strategy in respect of destinations reached on or via other key routes, including the East Coast Main Line, the Great Western Main Line, the North London Line, the Glasgow and South Western Line, the Midland Main Line, the routes between London and the Channel Tunnel, Felixstowe and the Midlands, Southampton and the Midlands, connections between Southampton and the West Coast Main Line and routes via Birmingham connecting Derby to Reading and Bristol; and
- (c) is taking action separately to require Railtrack to remedy the absence of reliable gauging information (see chapter 3 above).

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<sup>15</sup> *West Coast Main Line: Statement by the Rail Regulator*, Office of the Rail Regulator, London, November 1999 which can be seen on ORR's website (<http://www.rail-reg.gov.uk>) or in the ORR Library

## 6. Stations

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### *Background*

- 6.1 Railtrack was funded at flotation in May 1996 to tackle a backlog of repairs and maintenance in respect of stations and depots. That backlog had arisen in the years immediately before privatisation. The flotation prospectus noted that condition surveys of stations and light maintenance depots had identified a backlog of work which was needed to discharge Railtrack's obligations to station and depot operators, and its statutory and safety duties, and that until this work was completed, Railtrack might be in breach of certain contractual and statutory obligations<sup>16</sup>. This backlog was additional to the work arising from the normal maintenance and renewal cycle, for which Railtrack was also funded from access charges<sup>17</sup>. Railtrack initiated a Station Regeneration Programme (SRP) to do the necessary work.

### *1999 NMS*

- 6.2 The 1999 NMS reported that work under the SRP had been completed at over 50% of stations, and that the programme was due to be completed in 2001. Noting that the primary purpose of the programme was to remedy inherited defects, the 1999 NMS also said that Railtrack was putting in place processes to ensure that improvements and innovations made through the SRP were sustained. The 1999 NMS stated that Railtrack was also trying to improve the quality of station facilities through renewals in addition to implementing the SRP.

### *Booz Allen report*

- 6.3 Booz Allen examined the work which Railtrack had undertaken in the current control period to meet its obligations, and observed that:
- (a) around 10% of backlog repairs will not have been tackled by the end of the current control period in March 2001. The Regulator is aware of evidence that at some stations where backlog has allegedly been completed, some of the work has been defective, and some backlog items have not been tackled;

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<sup>16</sup> *Railtrack Share Offer Prospectus*, SBC Warburg, London, May 1996, pages 35-36

<sup>17</sup> *Ibid*, page 86

- (b) the rate of renewals is lower than should have been expected, given that few station renewals have taken place since 1991, and that this may require an increase in renewal expenditure in future;
- (c) the piecemeal approach which Railtrack has adopted to repairs and renewals of stations makes it unclear whether renewal has taken place in modern equivalent form; and
- (d) project management processes may be adding up to 20% to project delivery costs.

*Railtrack's response to the Booz Allen report*

- 6.4 In its response to the Booz Allen report, Railtrack asserts that it is on course to complete SRP by 2001 at all but a handful of stations where work has been deferred to coincide with major development schemes. Railtrack acknowledges that there were early difficulties with SRP but contends that these have been resolved, that costs are now under control, and that overhead costs are now falling. In relation to the low rate of renewal, Railtrack points out that it is usually more sensible from an economic and practical standpoint to refurbish rather than replace stations, in part because 30% of the structures have some listed building status.

*Feedback from consultees*

- 6.5 The feedback from train operators and funders was mixed. One train operator appeared very satisfied, but a consistent theme amongst several other respondents was Railtrack's inadequate consultation process, and the consequent lost opportunities for synergies between backlog works, and work which train operators wished to have undertaken. The HSE also expressed concern that SRP had failed to address outstanding safety issues, such as low platforms, in a sensible way, even when this had been drawn to the attention of Railtrack.
- 6.6 Others were content that consultation arrangements had improved and would lead to better synergy in the future. Concern was expressed about the modest scope of works undertaken, and the focus on maintenance rather than renewal. Some expressed concern that partial renewal of station buildings presents an unfavourable image to passengers because it emphasises the shabby or inadequate nature of facilities which have not been renewed.

*Regulator's findings*

- 6.7 Whilst he accepts that Railtrack will have implemented its SRP at most stations by the end of the current control period, the Regulator is concerned about the cost, quality and scope of the works conducted in the programme. There are indications that the cost of early SRP works was greater than would have been the case if the programme had been well organised, and that this may have led to budgetary constraints and a reduction in the scope of works in later phases of the programme. In addition, there appear to be inconsistencies in the outputs of the programme in different zones.

*Regulatory action*

- 6.8 The Regulator expects Railtrack to complete action to remedy defects in the quality and extent of work to deal with the backlog of repairs and maintenance inherited in 1994, and cyclical renewals requirements by the end of the current control period, to the greatest extent reasonably practicable. He will deal with under-delivery or inefficiency on the part of Railtrack in respect of stations and depots through adjustments at the periodic review to the revenues allowed to Railtrack in the next control period.





## ***7. Relationships with dependent customers***

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### **Introduction**

7.1 The Regulator has been concerned for some time that Railtrack's arrangements for establishing the needs of its customers and developing plans to meet those needs are inadequate. Following the review of the 1998 NMS, the first Regulator obtained undertakings from Railtrack to develop by January 1999 for each train operator and funding body:

- (a) a statement of its reasonable requirements (agreed if possible), and plans to meet those requirements. Railtrack's response was to develop the account planning process<sup>18</sup> with its customers to meet these requirements;
- (b) procedures for procuring enhancements as part of other maintenance, renewal or enhancement works where this would be practicable, economic and efficient; and
- (c) procedures for carrying out enhancements which would set out the way in which Railtrack would make its costs transparent.

7.2 In consulting train operators and funders (Railtrack's customers) about the 1999 NMS, and the Booz Allen report on Railtrack's performance, the Regulator asked them questions about the way in which Railtrack dealt with their reasonable requirements, including whether:

- (a) the 1999 NMS, and their account plans, accurately reflected their reasonable requirements, and contained adequate plans to implement them;
- (b) they were content with the progress of any feasibility studies;
- (c) they had effective processes in place with Railtrack to monitor delivery of reasonable requirements;
- (d) the scope of the output measures in the 1999 NMS was consistent with their reasonable requirements;

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<sup>18</sup> Railtrack has developed account plans with each train operator and PTE in which it endeavours to set out jointly agreed objectives and plans for attaining those objectives

- (e) there were adequate procedures for taking advantage of renewal projects to procure enhancements;
- (f) Railtrack's costs were transparent and reasonable, and quotations were timely; and
- (g) there was clarity about what constituted renewal and enhancement.

7.3 In their response to the 1998 NMS, several train operators complained of possessions overruns, short notice cancellations, and speed restrictions once possessions were completed. In consulting train operators and funders on the 1999 NMS, the Regulator asked whether they had seen improvements in the adequacy of planning and management arrangements for engineering possessions, including the extent to which possessions were used as intended, the extent of possessions overruns, and the level of speed restrictions which remained in force once possessions were completed.

7.4 This chapter summarises feedback from consultees on these issues, and specific actions which the Regulator requires Railtrack to take, or will be taking himself. Finally, it sets out proposals to redress the balance between Railtrack and its customers, by requiring Railtrack to develop an enforceable code of practice

## **Reasonable requirements**

### *Feedback from consultees*

7.5 The responses indicated that:

- (a) customers were generally content with the process for defining reasonable requirements put in place at ORR's behest last year; most confirmed that the 1999 NMS, combined with their account plans, accurately reflected their reasonable requirements, and contained adequate action plans to deliver them. However, a number were sceptical about the adequacy of the arrangements for monitoring implementation, and in some cases whether the plans would be implemented;
- (b) following discussions between Railtrack and its customers, sometimes protracted, most cases of failure to agree reasonable requirements were resolved. However, agreement on a substantial number of reasonable requirements remains outstanding between Railtrack and one customer; and

- (c) some customers were concerned that the 1999 NMS, did not reflect the detail of their reasonable requirements, and that the output and condition measures it contained were not relevant to them.

### *Regulator's findings*

#### 7.6 The Regulator:

- (a) notes that the account planning procedure implemented by Railtrack at ORR's request has helped to clarify the reasonable requirements of customers;
- (b) notes that Railtrack's quarterly progress reports on reasonable requirements do not demonstrate rapid progress by the company towards developing and implementing specific action plans to meet those requirements;
- (c) considers that it is more appropriate for the detail of customers' reasonable requirements and output measures specifically linked to them to be set out in their account plans. It is important to note that whether a reasonable requirement appears in the 1999 NMS or in an account plan, it is still Railtrack's obligation to meet that requirement to the greatest extent reasonably practicable, in accordance with Condition 7 of its network licence.

### *Regulatory action*

- 7.7 The Regulator will continue to require quarterly reports from Railtrack on its progress in meeting the reasonable requirements of its customers, including the completion of feasibility studies where these are necessary to establish whether a requirement is practicable. He looks to Railtrack's customers to let him know if their account planning arrangements are not working, or if Railtrack is failing to meet their reasonable requirements to the greatest extent reasonably practicable.

## **Enhancements and cost transparency**

### *Feedback from consultees*

- 7.8 At the time the Regulator consulted train operators and funders, Railtrack had not yet finalised procedures to facilitate the procurement of enhancements by its customers as part of other works. However, a number of respondents commented on Railtrack's project management costs. Although a few felt that Railtrack's costs were transparent and reasonable, most considered that Railtrack's project management costs were too high; some had gone so far as to make direct arrangements with contractors in order

to reduce costs. A significant number also complained about the time taken by Railtrack to plan and progress projects on behalf of train operators.

### *Regulator's findings*

- 7.9 The Regulator considers that it is a reasonable requirement of customers that Railtrack should provide sufficient advance notice of planned works in order to enable them to procure works which would benefit from the synergy of being carried out at the same time, and that Railtrack should make its costs transparent. He notes that Railtrack committed to sharing its maintenance and renewal plans with customers and funders in July and November 1999, and thereafter each May, so as to enable them to procure additional works alongside other maintenance, renewal or enhancement works where this would be practicable, economic or efficient. Despite this, in some cases, Railtrack did not make its plans available to its customers until September 1999, and even then the detail provided in the plans was insufficient to enable train operators to identify the location and precise timing of the planned works. The Regulator considers that this is unsatisfactory because it means that significant potential synergies could be lost. Accordingly, the Regulator is inviting comments from train operators and funders on the efficacy of these procedures, and will consider what should be done to ensure that Railtrack takes account of these comments.
- 7.10 The Regulator is concerned that Railtrack has yet to develop procedures to make its costs transparent, despite undertaking in July 1998 to include such procedures in each of the statements of customer reasonable requirements it committed to produce by January 1999. He also notes that there are continuing complaints from customers about the time taken to obtain quotations for works to be undertaken by Railtrack. The Regulator considers that these issues are symptomatic of Railtrack's unsatisfactory approach to its customer relationships. He is also concerned about the complaints of train operators and PTEs that the costs quoted by Railtrack (particularly for project management) are high in comparison to those quoted by third parties. In this regard, he notes that Booz Allen considers that SRP project management processes may be adding up to 20% to project delivery costs.
- 7.11 The Regulator intends that Railtrack should make its costs transparent. His December 1999 provisional conclusions document will set out a framework for treatment of enhancement works which will include provision for appropriate overheads. In addition, he will be asking Railtrack to explain its project management processes to him, as well as the way it works out cost estimates for works undertaken on behalf of

customers, and the justification for the overheads which it applies. He will examine these to assess whether they are reasonable, having regard to comparable situations.

- 7.12 In the meantime, given that Railtrack has failed to publish the procedures for facilitating the procurement of works and for making its costs transparent which it undertook to do by January 1999, the Regulator expects Railtrack, as a matter of urgency, to finalise and publish these procedures before the end of 1999. Failure to do so will result in appropriate regulatory action.

## **Possessions management**

### *Feedback from consultees*

- 7.13 In response to the 1998 NMS, a number of train operators expressed concern about problems arising from poor management of possessions by Railtrack and its contractors (see paragraph 7.3 above). Feedback from train operators in relation to the 1999 NMS and the Booz Allen report indicate that while some had experienced improvements, these have been patchy and there continue to be problems.

### *Regulator's findings*

- 7.14 The Regulator notes that:
- (a) short notice changes to engineering possessions have continued to occur during 1998/99;
  - (b) more intensive use of the network has increased the requirement for maintenance and renewal work, whilst reducing the time available for engineering possessions to allow these to take place;
  - (c) possessions management appears to be improving on some parts of the network, which indicates that some Railtrack zones could learn from the better practice of other zones; and
  - (d) there appears to be a lack of co-ordination between some Railtrack zones on the timing of possessions, which can result in unnecessary disruptions to train services across zones, causing inconvenience to passengers.

## *Regulatory action*

### 7.15 The Regulator:

- (a) in order to improve advance information to passengers, modified the licence of Railtrack and train operators on 17 May 1999 to require them to make available information on planned changes to train services arising from possessions and other causes at least 12 weeks in advance. In general, Railtrack and the train operators have successfully complied with the new licence conditions; the Regulator has taken and will take action to ensure compliance as necessary;
- (b) will consider whether Railtrack should be required to compensate train operators for all possessions (at present it has a 'free allowance'), and to pay higher compensation, in order to incentivise Railtrack to optimise the efficient use of possessions<sup>19</sup>; and
- (c) considers that there may well be scope for improvements to the planning and management and use of possessions to ensure an appropriate balance between efficient maintenance and renewal of the network, and the service to passengers and freight customers. He would expect such a balance to be reflected in Railtrack's contracting strategy. Accordingly, he requires Railtrack to co-ordinate a constructive debate within the industry, and to produce proposals.

### **Proposed requirement for an enforceable code of practice**

7.16 The Regulator has identified a number of failures in the way Railtrack deals with its customers, including those described above in this chapter. Other problems include a grudging approach to the provision of information requested by Railtrack's customers, protracted and opaque processes for the negotiation of new access rights, and delays in acceptance procedures for new rolling stock. He considers that these are symptomatic of a culture of distrust between Railtrack and its customers borne of its monopoly power, and that Railtrack's attitude towards its customers is not conducive to the efficient and effective operation and development of the rail network.

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<sup>19</sup> Ibid, footnote 8

- 7.17 Accordingly, in addition to the specific remedial measures outlined above, the Regulator intends to propose a modification to Railtrack's network licence which would require it to develop and then comply with an enforceable code setting out best practices in the way Railtrack deals with its customers. The aim is ensure that both Railtrack and its customers have a clear idea of their rights and obligations, and that Railtrack provides a better service to its customers, with a more timely, transparent and co-ordinated approach. The Regulator proposes to publish a draft licence modification for consultation shortly.