

*Additional Submission on behalf of Grand Central Railway
Company limited
Pursuant to Rule G16(c)
Access Dispute Adjudication (ADA)57*

1. INTRODUCTION

- 1.1 Following provision by Grand Central (GC) on 19th October 2023, of its Statement of Claim (SoC) in relation to ADA57, Network Rail (NR) provided on 2nd November 2023, its Statement of Defence (SoD).
- 2.3 This additional submission from GC represents a response to specific queries raised by the hearing chair, as well as addressing some of the additional points raised by NR in its SoD.

2. SPECIFIC QUERIES RAISED BY THE HEARING CHAIR

2.1 *Specific clarification of the way in which GC (presumably) does not agree with the summary in clauses 5.1.1-5.1.4 of NR's SoD. That is, the description of the way in which the Track Access Contract (TAC), Part G of the Network Code (NC) and the wider industry context and intention behind the TAC and NC clauses set out in the Periodic Review 2008 provide for compensation for Network Changes, and the Restrictions of Uses needed to enable them.*

- 2.1.1 Grand Central acknowledges that as a result of it not paying the Access Charge Supplement (ACS) it is not entitled to automatic formulaic compensation for Type 1 and Type 2 Restrictions of Use (RoU) as set out in Schedule 4 of its Track Access Agreement. However, we maintain that there is nothing that precludes NR from proposing appropriate compensation terms within its Network Change proposal to cover actual revenue loss associated with RoUs for the implementation of the change.
- 2.1.2 We do not disagree that there was an intention during Periodic Review (PR) 08 to move most compensation payments for RoU's out of Part G and into Schedule 4, however we do not believe it was the intention of the changes to allow NR to propose such significant changes, which would be implemented over a period of many years, that would have a significant impact on an open access operators services, leaving them financially impacted through revenue loss as a result of RoU's associated with the change with no method for achieving compensation.
- 2.1.3 Our view on the intention of the changes in PR08, is borne out of the way in which way Part G was amended to reflect these changes during the PR08 process.

- 2.1.4 A first draft of the proposed changes to Part G was issued to the industry in February 2008 (Appendix A). Amongst other minor changes this proposed the inclusion of G2.4, inline with the current version of Part G, referencing the exclusion of RoU compensation.
- 2.1.5 It also proposed a change to G2.1.1(a)(iii) as set out below.

G2.1.1(a)(iii) – October 2007

“the implementation of the proposed change would result in a material deterioration in the performance of that Train Operator’s trains which cannot adequately be compensated under this Condition G2; or”

G2.1.1(a)(iii) – February 2008 proposed change

*“the implementation of the proposed change would result in a material deterioration in the performance of that Train Operator’s trains which cannot adequately be compensated under this Condition G2 **or that Train Operator’s Access Agreement;** or”*

- 2.1.6 The inclusion of Train Operators access agreement is important here, on the basis that the proposed changes were designed to move most RoU compensation from Part G into Schedule 4 of an operators Track Access Agreement, however Part G would remain available to compensate for all other elements of a Network Change impact. On the basis the only Network Change compensation available under an operators Track Access Agreement is in relation to an RoU, we maintain that the intention was to ensure Operators had a protection mechanism available, to ensure they would be adequately compensated for RoUs associated with Network Changes. If the intention was to ensure operators could not claim RoU compensation under part G there would have been no requirement to include a reference to the operators access agreement.
- 2.1.7 We can also see that paragraph G2.1.1(a)(iii) was further amended in July 2008 (Appendix B), where a further update included a reference to RoUs.

G2.1.1(a)(iii) – July 2008 Drafting

*“the implementation of the proposed change would result in a material deterioration in the performance of that Train Operator’s trains which cannot adequately be compensated under this Condition G2 **or in respect of a Restriction of Use** under that Train Operator’s Access Agreement; or”*

- 2.1.8 This further drafting change again suggests that the reference to the Train Operators Access Agreement, can only be in relation to RoU compensation and therefore if the intention was to fully exclude all RoU compensation from Part G there would have been no requirement to retain reference to either RoUs or an operators Access Agreement.
- 2.1.9 Whilst we appreciate the above drafts were further revised in order for Part G to reflect its current state, it was at this point during PR08 that the reference to RoUs and Access Agreements were included, and so are relevant to this dispute.

- 2.1.10 A further change of relevance was proposed to paragraph G2.2 in relation to the amount of compensation, as follows.

G2.2 Amount of Compensation – October 2007

“Subject to Condition G2.3, the amount of the compensation referred to in Condition G2.1 shall be an amount equal to the amount of the costs, direct losses and expenses (including loss of revenue) which can reasonably be expected to be incurred by the Train Operator as a consequence of the implementation of the proposed change.”

G2.2 Amount of Compensation – February 2008 proposed changes

*“Subject to Condition **G2.3 and Condition G2.4(a)**, the amount of the compensation referred to in Condition G2.1 shall be an amount equal to the amount of the costs, direct losses and expenses (including loss of revenue) which can reasonably be expected to be incurred by the Train Operator as a consequence **of the proposed change once implemented.**”*

- 2.1.11 This proposed change demonstrates a clear distinction between the impact of a proposed change as a consequence of the implementation, and as a consequence of the proposed change once implemented. The former would appear to cover the impact of works to implement the change, alongside the impact of the change once implemented, the latter referring only to the impact once the change has been implemented i.e., after the works has been completed.
- 2.1.12 We can see that this draft was rejected in the July 2008 document (Appendix B) which reverted to:

G2.2 Amount of Compensation – July 2008 proposed changes

*“Subject to Condition G2.3 and Condition G2.4(a), the amount of the compensation referred to in Condition G2.1 shall be an amount equal to the amount of the costs, direct losses and expenses (including loss of revenue) which can reasonably be expected to be incurred by the Train Operator as a **consequence of the implementation of the proposed change.**”*

- 2.1.13 Whilst we appreciate this does not reflect the current drafting of Part G, we note that no such change was proposed to G2.1.1(a)(iii), suggesting the implementation of the proposed change having a material impact on the performance of an operator's trains could refer to both during the implementation taking place (the RoUs), and subsequently once the change was implemented.
- 2.1.14 In paragraph 5.1.3 of its SoD NR states that the PR materials, make it clear that *“Compensation for Type 1 and Type 2 RoUs should only be paid to those train operators who have paid for the increased protection through an ACS”*.
- 2.1.15 It is important to note, that until PR23, which is currently taking place, an ACS has never been calculated for GC, nor has GC been requested to opt-in or opt-out of the full schedule 4 regime.

- 2.1.16 For PR23 a specific methodology paper (Appendix C) has been provided, and an ACS calculated for open access operators with a firm request for Open Access operators to opt-in or opt-out.
- 2.1.17 On reviewing documentation associated with PR08 and PR18, it is clear that no specific quote has ever been provided to Open Access operators and no request for them to opt-in or opt-out of the full schedule 4 and make the ACS payment. The move for PR23 to provide a specific open access methodology and quote suggested recognition that GC and other Open Access operators have not previously had this option available.

2.2 *Clarification of the issues raised in NR's letter to GC of 23 March 2023 dealing with GC's objection under G2.1.1(a)(iii) of the NC, with which GC (presumably) disagreed and how this was communicated to NR. Whist understanding that NR did not issue minutes of the subsequent meeting on 26 July 2023, to clarify what issues GC recalls were discussed and how matters were left at the end of the meeting.*

- 2.2.1 GC does not believe that NR's letter of 23rd March sufficiently dealt with the objection under G2.1.1(a)(iii). GC has continually requested clarification on the purpose of G2.1.1(a)(iii) if it cannot be used in the way in which GC has in rejection the Network Change proposal.
- 2.2.2 The letter dated 23rd March suggests that as G2.1.1(a)(iii) does not align with G2.4.1 it is simply incorrect. However, offers no view on the true intention of this condition. We therefore feel this did not adequately address our concern.
- 2.2.3 As set out in Network Rail's SoD, GC did not formally respond to NR's letter dated 23rd March 2023. GC has weekly calls with Network Rail, and informed Network Rail on several occasions that we did not believe the response dated 23 March 2023 represented a formal response to our objection, nor did it sufficiently deal with our specific objection under G2.1.1(a)(iii).
- 2.2.4 The meeting scheduled by NR on 26 July 2023, was done so on the basis of a verbal request from NR for GC to withdraw its outstanding objection to the proposed Network Change. GC advised NR that it did not feel it was in a comfortable enough position that it would be adequately compensated and therefore was unable to do so.
- 2.2.5 The meeting on 26 July 2023, was short and was attended by Chris Brandon, Sean English, Mark Garner and Tim Wright. GC reiterated its concerns regarding the adequacy of compensation and that it did not feel sufficient explanation had been provided as to why condition G2.1.1(a)(iii) was not a valid objection. GC advised it would not be willing to withdraw its rejection and would likely refer the matter to ADC should no further progress be made. NR acknowledged GC's position but made no further attempt to address the rejection.

3. ADDITIONAL COMMENTS ON NR STATEMENT OF DEFENCE

- 3.1 In paragraph 4.4 of its SoD, NR states *“Part G, which is designed to deal with the actual Network Change and the impact once implemented, and Schedule 4 which provides compensation for RoU/possessions to implement the Network Change”*
- 3.2 Grand Central disagrees with this point, on the basis that alternative wording to paragraph G2.2 that was proposed during PR08 which was rejected. The proposed wording as set out in paragraph 2.1.10 of this document made a clear differentiation between consequences as a result of the implementation, and consequences of the proposal once implemented.
- 3.3 The rejection of this wording, suggests Part G can still compensate operators for the impact of the implementation, not only the impact once the implementation is complete.
- 3.4 In paragraphs 4.8 to 4.10, NR details the wider background to the East Coast Digital Programme (ECDP). GC remains committed to the delivery of ECDP and is fully engaged with the programme. As NR states GC is being funded for the implementation of the programme and therefore the associated Network Changes. The RoU compensation represents the only outstanding area that GC does not agree with the approach to operator compensation.
- 3.5 In paragraphs 4.11 and 4.12 NR has highlighted and detailed the compensation received by GC under SPD within schedule 4 of its Track Access Agreement. This demonstrates that in some instances GC does receive adequate compensation for the implementation of our proposed change under our Track Access Agreement. We also note that NR has confirmed that GC has triggered SPD for its EC02 service group, however it therefore remains the case that for the Network Change in question condition G2.1.1(a)(iii) remains satisfied, in that:
- 3.6 The implementation of the proposed change (not the proposed change once implemented) would result in a material deterioration in the performance of Grand Central's trains (services could not be operated or had extended journey times) which cannot be adequately compensated, in respect of a restriction of use, in connection with the implementation of the proposed change, under its Track Access Agreement (we will not receive full compensation for the RoUs on weekend in question under schedule 4).
- 3.7 In paragraph 5.3.4 of its SoD, Network Rail refers to the potential delay costs associated with a delay to the implementation of the Network Change, and that GC's claim value is only a modest amount the right decision was to progress with the Network Change.
- 3.8 The modest claim amount referred to by Network Rail, was likely provided as a verbal 'ballpark' estimate on the basis of previous disruption. However, Network Rail has never sought to understand the actual impact nor requested Grand Central provide this detail. It is also disappointing that what Network Rail may think is a modest amount of compensation is not recognised as the significant financial impact it is on Grand Central. As a commercial operator running 10 return services per day, taking full revenue risk we would not refer to the amount quoted as modest.

4. RELATIONSHIP BETWEEN ACS AND ENHANCEMENTS

- 4.1 In paragraph 5.1.5, NR sets out a position in relation to the perceived discrimination against other operators, should GC be paid compensation for Type 1 and Type 2 RoUs. The key area of contention here is that GC is not seeking automatic compensation for **all** Type 1 and 2 RoUs, as this would be clearly discriminatory if GC does not pay the ACS. GC fully accepts that NR must maintain and renew the railway and that as an access beneficiary, allowance must be made for this to happen, however, GC is seeking RoU compensation in line with actual revenue loss for an enhancement, which ECDP is identified as in NR's enhancement delivery plan June 2023 (Appendix D).
- 4.2 Appendix E details NRs schedule 4 payments to operators up to 2020. Within this document NR states *"The ACS only covers the efficient cost of planned disruption in relation to Network Rail's maintenance and renewals work. However, Schedule 4 compensation is paid to passenger operators for all types of planned disruption, including that due to enhancements (this is not covered by the ACS)"*.
- 4.3 Whilst the ACS is designed to leave operators in a financially neutral position subject to NR planning its maintenance and renewals activity efficiently, the inclusion of RoU compensation for Network Change and enhancements skews this position with operators in general receiving more than they pay in where significant enhancements are planned, as set out above.
- 4.4 Whilst NR argue an operator must pay the ACS to received enhancement and Network Change compensation, there is no relationship between the ACS charged and the anticipated level of enhancement expected, nor the compensation paid for enhancements, as set out in Appendix E.
- 4.5 GC would therefore argue that it is in fact GC that is being discriminated against on the basis that there is no relationship between the ACS and the RoU compensation for enhancements, where the ACS payment only covers the cost of maintenance and renewals disruption, and the enhancement programme would be responsible for funding compensation associated with its own relevant RoUs.

5. ADDITIONAL APPENDICES PROVIDED

Appendix A – Extract of Draft Part G – Issued as part of PR08 February 2018

Appendix B – Extract of Draft Part G – Issued as part of PR08 – July 2008

Appendix C – ACS Methodology Open Access PR23

Appendix C – Extract of NR Enhancement Delivery Plan June 2023

Appendix D – Extract of Schedule 4 payments made to TOCs 2020

Appendix A – Extracts of First Draft of Proposed Part G February 2008

CONDITION G2 - RESPONSE BY TRAIN OPERATOR TO NETWORK CHANGE PROPOSAL

2.1 *Obligation to give notice of response*

2.1.1 The Train Operator shall give notice to Network Rail if it considers that:

- (a) one or more of the following conditions has been satisfied:
 - (i) the implementation of the proposed change would necessarily result in Network Rail breaching an access contract to which that Train Operator is a party;

G18

15 October 2007

Paragraph 2.1.5 in
statement of claim.

- (ii) Network Rail has failed, in respect of the proposed change, to provide sufficient particulars to that Train Operator under Condition G1.2;
- (iii) the implementation of the proposed change would result in a material deterioration in the performance of that Train Operator's trains which cannot adequately be compensated under this Condition G2 or that Train Operator's Access Agreement; or
- (iv) the proposed change does not adequately take account of the reasonable expectations of the Train Operator as to the future use of the relevant part of the Network; and/or

Paragraph 2.1.10
in statement of
claim.

2.2 Amount of compensation

Subject to Condition ~~G2.3~~2.3 and Condition G2.4(a), the amount of the compensation referred to in Condition G2.1 shall be an amount equal to the amount of the costs, direct losses and expenses (including loss of revenue) which can reasonably be expected to be incurred by the Train Operator as a consequence of the ~~implementation of the~~ proposed change once implemented.

2.3 Benefits to be taken into account

There shall be taken into account in determining the amount of compensation referred to in Condition G2.12.2:

- (a) subject to Condition G 2.4(b), the benefit (if any) to be obtained or likely in the future to be obtained by the Train Operator as a ~~result~~consequence of the proposed Network Change; and
- (b) the ability or likely future ability of the Train Operator to recoup any costs, losses and expenses from third parties including passengers and customers.

2.4 Restrictions of Use

- (a) The amount of the compensation referred to in Condition G 2.1 shall exclude the amount of the costs, direct losses and expenses (including loss of revenue) which are reasonably incurred or can reasonably be expected to be incurred by a Train Operator as a consequence of any Restriction of Use in connection with the implementation of the proposed change².
- (b) The benefits taken into account in determining the amount of the compensation for the proposed change under Condition G2.3 shall exclude the benefit (if any) to be obtained or likely in the future to be obtained by the Train Operator as a consequence of any Restriction of Use in connection with the implementation of the proposed change

Paragraph 2.1.4 in
statement of claim.

G20

15 October 2007

(with that exclusion including any compensation payable to that Train Operator in respect of that Restriction of Use under its Access Agreement).

**CONDITION G2 - RESPONSE BY TRAIN OPERATOR TO NETWORK
CHANGE PROPOSAL**

2.1 *Obligation to give notice of response*

2.1.1 The Train Operator shall give notice to Network Rail if it considers that:

- (a) one or more of the following conditions has been satisfied:
 - (i) the implementation of the proposed change would necessarily result in Network Rail breaching an access contract to which that Train Operator is a party;
 - (ii) Network Rail has failed, in respect of the proposed change, to provide sufficient particulars to that Train Operator under Condition G1.2;
 - (iii) the implementation of the proposed change would result in a material deterioration in the performance of that Train Operator's trains which cannot adequately be compensated under this Condition G2 or in respect of a Restriction of Use under that Train Operator's Access Agreement; or
 - (iv) the proposed change does not adequately take account of the reasonable expectations of the Train Operator as to the future use of the relevant part of the Network; and/or

Paragraph 2.1.7 in
statement of claim.

Paragraph 2.1.12
in statement of
claim.

2.2 Amount of compensation

Subject to Condition ~~G2.3~~2.3 and Condition G2.4(a), the amount of the compensation referred to in Condition G2.1 shall be an amount equal to the amount of the costs, direct losses and expenses (including loss of revenue) which can reasonably be expected to be incurred by the Train Operator as a consequence of the ~~implementation of the~~ implementation of the proposed change ~~once implemented~~.

2.3 Benefits to be taken into account

There shall be taken into account in determining the amount of compensation referred to in Condition ~~G2.12.2~~2.2:

[INDOCS01/552318.2](#)

G19

15 October 2007
Doc # 307212.03

[\[ORR proposed changes via C8\]](#)

- (a) subject to Condition G 2.4(b), the benefit (if any) to be obtained or likely in the future to be obtained by the Train Operator as a ~~result~~consequence of the proposed Network Change; and
- (b) the ability or likely future ability of the Train Operator to recoup any costs, losses and expenses from third parties including passengers and customers.

2.4 Restrictions of Use

- (a) The amount of the compensation referred to in Condition G 2.1 shall exclude the amount of the costs, direct losses and expenses (including loss of revenue) which are reasonably incurred or can reasonably be expected to be incurred by a Train Operator as a consequence of any Restriction of Use in connection with the implementation of the proposed change.
- (b) The benefits taken into account in determining the amount of the compensation for the proposed change under Condition G2.3 shall exclude the benefit (if any) to be obtained or likely in the future to be obtained by the Train Operator as a consequence of any Restriction of Use in connection with the implementation of the proposed change (with that exclusion including any compensation payable to that Train Operator in respect of that Restriction of Use under its Access Agreement).

Appendix C – Schedule 4 ACS Methodology PR23

Referenced in Paragraph 2.1.16

Schedule 4 ACS Summary Methodology – Open Access Operators

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This document has been prepared to set out the methodology being used to estimate CP7 Schedule 4 costs for Open Access Operators, and therefore required funding via the Schedule 4 Access Charge Supplement. It should be read in conjunction with the Schedule 4 ACS summary for publicly contracted operators. This was presented to the Schedule 4 & 8 working group on 24 March 2023.

Overview

This document outlines the approach to calculating the Access Charge Supplement (ACS) for Open Access Operators (OAOs). The draft OAO price list will be submitted to ORR in September following the draft determination and shared with operators for the purpose of taking a decision on whether to opt-in to or out of Schedule 4 in CP7. The methodology has been developed by group finance, but outputs and calculations will be owned by regional finance teams from the Lead Region for each OAO.

Schedule 4 Access Charge Supplement Background

Publicly contracted operators

Under the track access agreement, publicly contracted Train Operating Companies (TOCs) can choose to pay Network Rail an ACS, and, in return, receive Schedule 4 payments to compensate them for disruption to services they experience due to planned possession activities for Maintenance and Renewals (M&R) activities as well as Emergency Timetables arising from unexpected events (disruptions due to Enhancement works are funded separately).

The values of the ACSs are set to cover the estimated Schedule 4 payments incurred by Network Rail because of an appropriate number of effectively planned possessions. If possession numbers or durations exceed those anticipated, TOCs may receive Schedule 4 payments more than their ACS payments, and Network Rail is thus incentivised to plan and conduct possessions efficiently.

Open Access Operators

For CP7, OAOs have been provided with the opportunity to opt into the Schedule 4 regime. OAOs provide a different challenge to the existing Schedule 4 regime, being smaller and at times disproportionately impacted by certain schemes taking access. However, the methodology we have used attempts to avoid any form of discrimination or different treatment between previously publicly contracted operators and OAOs.

Scope

Five OAOs are currently under consideration as part of this work. The below table indicates the routes they service.

Operator (Legal Name)	Lead Region	Routes Operated (Service Code)
Lumo (East Coast Trains Ltd)	Eastern	London Kings Cross – Newcastle – Edinburgh (LD01)
Grand Central (Grand Central Railway Company Ltd)	Eastern	London Kings Cross – Sunderland (EC01) London Kings Cross – Bradford (EC02)
Grand Union Trains (Grand Union Trains Ltd)	Western and Wales	London Paddington – Carmarthen (ORR approved for Dec 2024) London Euston – Stirling (Awaiting ORR approval for May 2025)

Heathrow Express (Heathrow Express Operating Company Ltd)	Western and Wales	Paddington – Heathrow Airport (HM01)
Hull Trains (Hull Trains Company Ltd)	Eastern	London Kings Cross – Hull (PF01)

Grand Union Trains' track access agreement for the London – Carmarthen services has been agreed with ORR, with detailed drafting in progress. These services are considered in scope for the purposes of the CP7 ACS calculation. The agreement for London – Stirling services is under consideration by ORR and final approval is not expected until late 2023. Until final approval is published by ORR, these services will be considered out of scope for the purposes of the CP7 ACS calculation.

Excluded Operators

Eurostar, while they are legally an OAO, have a track access contract that only covers a limited amount of Network Rail owned (i.e. non-HS1) track and have confirmed that they do not need to be considered for a Schedule 4 ACS quote.

London Underground Line (LUL) are a distinct entity as a direct subsidiary of TFL, covering some Bakerloo Line services that run on West Coast Mainline South and District Line services that run through Anglia. They are currently unregulated by ORR and their Track Access Contract is not expected to be reviewed until some time during CP7, so are therefore considered out of scope for the purposes of the CP7 ACS calculation.

Future Operators

Future OAOs are considered as part of the methodology development, with the goal to be able to provide a quote for all intended operators once the service pattern has been approved by ORR.

Operators that are currently out of scope, but fall into scope in the future, will be treated as a new operator for the purposes of calculating an ACS quote.

Developed Methodologies

Network Rail has undertaken work to review the various methodologies that could be used to calculate the ACS, however when considering the need to treat operators fairly, and thus OAOs in similar fashion to publicly contracted operators, we have used the following methodologies.

Existing operators

Existing OAOs have got historic data available that is similar to the publicly contracted operators – that being the Schedule 4 statements (showing Type 1 and 2 payments, currently used for tracking Sustained Planned Disruption), albeit no payments have been made other than for Type 3 restrictions of use. On this basis, the ACS can be calculated in identical fashion to the other operators through the development of Schedule 4 v Renewals/maintenance unit rates and applied to Network Rail's CP7 plans. Further detail can be found in the CP7 Schedule 4 ACS Methodology Summary paper.

Where historic data is available that is similar to previously franchised operators, but does not cover a large enough period of time to be treated as above, then this data will be used to create a gross up percentage.

Example

A given route has an OAO that has been running services for 6 months and is forecasting for this to continue at the same service level. If that Operator has been incurring 2% of the total Schedule 4 costs on a route then this will be used as the basis to gross up the calculated ACS figures. If this route had incurred £100 Schedule 4 costs, then this operator will be attributed an ACS of £2, which would bring the total ACS for the route up to £102.

New operators

Where we have new OAOs entering service, we won't have sufficient historic data to follow the above methodology. Therefore, for new operators we calculate their ACS by grossing up the calculated figures for existing operators, on the same basis as we are using to split the ACS by TOC (current intention is to use vehicle miles). Illustrative example below;

Example

A given route has two main TOCs, whom both run 50 vehicle miles a year, and are forecasted to continue as such. The ACS estimate for this route based on the unit rate method is £100 per year. Splitting this by TOC using vehicle miles results in each TOC being attributed £50 per year.

An OAO is due to start service and forecasts to complete 10 vehicle miles per year. Under the methodology this OAO will be attributed an ACS of £10, which would bring the total ACS for the route up to £110.

Other areas to consider

Given the similarities between the OAO methodology and that of publicly contracted operators, treatment for items such as exceptional items, emergency timetables, schedule 8 rate recalibrations, and splitting by TOC will be addressed as per the paper presented to the Schedule 4 & 8 recalibration group on 24 March 2023 and shared alongside this paper.

Summary

Several methodologies have been considered to identify the most reliable and fair method for producing a Schedule 4 estimate for OAOs. These figures are calculated annually by route and OAO by estimating the cost that will be incurred by Network Rail in compensation to the OAO as a result of Maintenance and Renewals activities and emergency timetables, which will be funded by the Schedule 4 ACS should the operator opt in. The current proposed methodology for existing operators is identical to the previously publicly contracted operators, and for new operators a gross up method will be employed. These are considered fair and proportionate.

Appendix D Extract of Enhancement Delivery Plan June 2023

Referenced in paragraph 4.1

OFFICIAL

Ref. Code	Programme	Project	Network Rail Contact	Narrative	Output	Activity/ Milestone	Original Agreed Date	Updated Date(s)	Status
		Platform 13/14		as well as improve passenger satisfaction.	Replace the stairs to platform 13/14 with a wider alternative.	EIS – stairs available for use	Feb-23	May-23	Revised and Complete
A603	Stratford Station Congestion Relief Scheme (Short Term)	-	Adam Welton	This project focusses on reducing passenger congestion and improving customer satisfaction at Stratford station. The project intends to remove pinch points on Platform 6/8 (including relocation of a control room) which currently result in unsafe levels of passenger congestion at peak times, widen a stairway to a critical passenger subway by relocating a lift, and enhancements and simplifications to station signage.	<ol style="list-style-type: none"> 1. Relocation of control room on Platform 6/8 towards London end 2. Relocation of lift in Southern Concourse / Western Subway and widening of stairs 3. Enhanced and simplified Station Signage 	EIS Infrastructure Authorised	Mar-24	n/a – project is on target	On target
LNE605	East Coast Digital Programme (ECDP)	Northern City Line (NCL)	Samantha Barker	ECDP will fit the European Train Control System (ETCS) to a 100-mile stretch of railway between London and Stoke Tunnel (near Grantham) on the East Coast Main Line, together with ETCS fitment to the Northern City Line (NCL) branch into Moorgate. It will replace life expired signalling equipment with state-of-the-art digital signalling and will fit rolling stock and enable operators to run ETCS Level 2 with no signals. The programme uses a collaborative thin client model where the industry, including suppliers take a significant role in the decision making and delivery of the programme, ensuring buy-in from stakeholders and industry decision making. The introduction of ETCS will improve system capability	ETCS Level 2 with no signals running from Kings Cross to Stoke Tunnel with overlay mode at Peterborough Station and Werrington to Stoke tunnels (to allow crossing manoeuvres).	ETCS L2 Northern City Line	Jun-24	n/a – project is on target	On target
		Tranche 2 (Welwyn to Hitchen Overlay)			Fitment or upgrade of passenger trains, fitment of freight locomotives, on track machinery and charter and heritage units.	Tranche 2 ready to operate ETCS	Jul-25	Nov-24	Revised and on Target
		Tranche 4 (full roll-out)			Business change activities for Network Rail, passenger, freight, On Track Machines (OTM) and charter and heritage operators, including driver training and changes to systems and processes.	First no signals area operational	Apr-27	Nov-26	Revised and on Target

11

Appendix E – NR Schedule 4 payments to Operators 2020



Payments for planned disruption on the railway

For more information about payments for disruption on the railway visit:

<https://www.networkrail.co.uk/industry-and-commercial/information-for-operators/payments-for-planned-disruption-on-the-railway/>

Correct to October 2020

Train Operating company	Schedule 4 payments made to TOCs: Invoiced values*									
	FY 11/12	FY 12/13	FY 13/14	FY 14/15	FY 15/16	FY 16/17	FY 17/18	FY 18/19	FY 19/20	
Abellio East Anglia1	£ -	£ -	£ -	£ -	£ -	£ 11,046,357.61	£ 24,613,848.49	£ 49,709,602.81	£ 36,592,855.56	
Abellio Greater Anglia1	£ 2,279,365.70	£ 13,626,321.76	£ 16,689,495.05	£ 17,579,048.27	£ 16,781,989.76	£ 10,318,859.65	£ -	£ -	£ -	
Arriva Rail London 4	£ -	£ -	£ -	£ -	£ -	£ 6,597,445.54	£ 6,863,836.57	£ 7,546,811.37	£ 13,319,783.32	
Arriva Trains Wales8	£ 1,637,452.54	£ 2,496,426.76	£ 2,541,035.16	£ 3,302,967.23	£ 4,752,850.22	£ 6,193,723.36	£ 4,796,564.69	£ 7,219,725.85	£ -	
Avanti West Coast10	£ -	£ -	£ -	£ -	£ -	£ -	£ -	£ -	£ 8,454,068.37	
C2C	£ 2,185,127.16	£ 1,883,456.96	£ 3,190,301.85	£ 2,888,892.09	£ 2,819,628.10	£ 2,510,291.37	£ 4,465,373.52	£ 4,562,089.00	£ 4,955,801.43	
Chiltern	£ 818,470.13	£ 479,593.51	£ 359,039.68	£ 7,822,528.62	£ 2,955,052.37	£ 4,534,116.83	£ 635,179.31	£ 1,309,581.01	£ 3,394,657.95	
Cross Country	£ 7,191,386.38	£ 5,565,919.60	£ 11,322,934.78	£ 13,242,233.92	£ 11,065,709.73	£ 9,763,172.97	£ 14,784,489.42	£ 40,485,652.86	£ 12,104,380.68	
CrossRail	£ -	£ -	£ -	£ -	£ 2,070,529.57	£ 8,228,777.63	£ 12,824,904.90	£ 5,505,468.46	£ 1,465,088.54	
East Midlands Trains9	£ 4,830,994.86	£ 5,355,721.14	£ 20,674,573.11	£ 9,368,556.44	£ 9,096,372.80	£ 9,635,291.51	£ 15,082,855.79	£ 25,779,077.07	£ 17,986,458.35	
East Midlands Railway9	£ -	£ -	£ -	£ -	£ -	£ -	£ -	£ -	£ 16,951,006.98	
First Capital Connect2	£ 12,002,607.78	£ 5,810,950.12	£ 9,594,988.15	£ 4,365,384.86	£ -	£ -	£ -	£ -	£ -	
GoVia Thameslink Railway2	£ -	£ -	£ -	£ 7,341,256.12	£ 27,354,117.52	£ 28,090,966.23	£ 29,902,408.81	£ 42,366,111.41	£ 55,575,258.46	
Great Western Railway	£ 13,241,505.01	£ 18,210,287.55	£ 36,590,698.89	£ 37,569,555.98	£ 59,622,748.66	£ 57,999,751.54	£ 71,565,900.73	#####	£ 36,576,527.79	
Heathrow Express	£ 12,204.87	£ 7,471.94	£ 62,674.05	£ 74,297.33	£ 71,234.20	£ 118,659.87	£ 248,431.26	£ 70,289.35	£ -	
Hull Trains	£ -	£ -	£ -	£ 275,870.63	£ -	£ -	£ -	£ -	£ -	
London Midland5	£ 1,999,341.24	£ 3,767,282.26	£ 3,315,471.22	£ 8,347,740.00	£ 5,914,130.93	£ 3,825,400.90	£ 5,540,246.91	£ -	£ -	
London North Eastern Railway7	£ -	£ -	£ -	£ -	£ -	£ -	£ -	£ 32,876,979.34	£ 42,427,389.67	
London Overground4	£ 1,904,114.53	£ 1,510,632.23	£ 3,294,566.48	£ 6,580,132.93	£ 5,037,956.86	£ 11,165,259.35	£ -	£ -	£ -	
London Underground	£ 525,387.24	£ 816,303.00	£ 205,150.00	£ 896,757.00	£ 598,421.00	£ 451,560.00	£ 118,050.00	£ 589,897.00	£ 2,001,232.05	
Merseyrail	£ 689,823.23	£ 3,907,265.69	£ 3,643,052.60	£ 340,846.05	£ 417,506.68	£ 10,076,267.59	£ 6,615,172.10	£ 3,602,843.01	£ 6,418,626.20	
National Express East Anglia1	£ 12,900,036.42	£ -	£ -	£ -	£ -	£ -	£ -	£ -	£ -	
Northern	£ 4,295,353.78	£ 6,466,714.55	£ 9,412,004.83	£ 8,627,793.80	£ 19,086,339.82	£ 15,647,633.27	£ 29,475,570.44	£ 28,159,722.37	£ 7,343,618.57	
Scotrail3	£ 3,832,808.63	£ 2,165,923.68	£ 4,031,812.76	£ 4,393,409.13	£ 12,906,201.58	£ 27,695,735.60	£ 9,653,187.44	£ 17,691,908.34	£ 2,568,613.66	
Serco Caledonian Sleeper3	£ -	£ -	£ -	£ -	£ 796,500.78	£ 1,224,565.43	£ 425,081.18	£ 912,045.81	£ 975,214.92	
South Eastern	£ 6,898,488.53	£ 5,525,845.15	£ 11,327,199.93	£ 12,157,441.71	£ 31,547,232.56	£ 14,756,206.35	£ 21,369,263.95	£ 16,883,220.22	£ 20,536,428.98	
South West Trains6	£ 9,751,366.01	£ 11,214,657.75	£ 11,739,950.02	£ 16,440,013.57	£ 17,647,766.79	£ 19,624,844.43	£ 13,322,057.22	£ 1,656,952.01	£ -	
South Western Railway6	£ -	£ -	£ -	£ -	£ -	£ -	£ 21,215,272.69	£ 21,538,936.53	£ 19,202,298.09	
Southern3	£ 9,050,625.57	£ 14,476,946.47	£ 18,530,860.06	£ 32,285,653.64	£ 4,133,151.26	£ -	£ -	£ -	£ -	
Transpennine Express	£ 3,834,615.91	£ 3,287,078.41	£ 3,394,044.89	£ 4,156,553.61	£ 6,465,065.03	£ 3,862,353.83	£ 6,710,781.87	£ 9,239,444.56	£ 7,508,495.73	
Transport for Wales8	£ -	£ -	£ -	£ -	£ -	£ -	£ -	£ 2,792,201.12	£ 5,371,288.81	
Virgin Trains East Coast7	£ 10,187,836.97	£ 16,851,525.20	£ 30,285,947.97	£ 27,778,934.73	£ 22,546,136.74	£ 18,498,189.77	£ 28,352,274.13	£ 6,618,523.27	£ -	
Virgin West Coast10	£ 5,631,866.30	£ 11,998,175.75	£ 7,186,007.60	£ 23,955,882.23	£ 52,552,553.80	£ 19,673,178.89	£ 26,496,583.25	£ 49,796,041.36	£ 46,569,438.05	
West Midland Trains5	£ -	£ -	£ -	£ -	£ -	£ -	£ 1,855,518.54	£ 13,421,825.40	£ 5,050,858.45	
Total	£ 115,700,778.79	£ 135,424,499.48	£ 207,391,809.08	£ 249,791,749.89	£ 316,239,196.76	£ 301,538,609.52	£ 356,932,853.21	£ 509,831,245.47	£ 368,212,163.29	

1 Abellio Greater Anglia took over the franchise from National Express EA in February 2012. Franchise bid won by Abellio and renamed in October 2016

2 GoVia Thameslink Railway took over the franchise from First Capital Connect in September 2014. Southern Became part of GoVia Thameslink Railway in August 2015

3 Serco Caledonian Sleeper split from Scotrail April 2015

4 Arriva Rail London took over the franchise from London Overground in November 2016

5 West Midland took over from London Midland in December 17

6 South Western Railway took over from South West Trains in August 17

7 London North Eastern Railway took over from Virgin Trains East Coast in July 18

8 Transport for Wales took over from Arriva Trains Wales in October 18

9 East Midlands Railway took over from East Midlands Trains in August 19

10 Avanti West Coast took over from Virgin West Coast in December 19

Franchised passenger operators pay a predetermined Access Charge Supplement (ACS) to cover the estimated efficient cost to Network Rail of providing compensation through Schedule 4.

The ACS can be thought of as an 'insurance premium' payable in exchange for Schedule 4 protection for planned disruption, and is shown in the table below.

The ACS only covers the efficient cost of planned disruption in relation to Network Rail's maintenance and renewals work.

However, Schedule 4 compensation is paid to passenger operators for all types of planned disruption, including that due to enhancements (this is not covered by the ACS).

Open access passenger operators only receive formulaic Schedule 4 compensation consistent with that available for franchised passenger operators, if they opt to pay an ACS.

Otherwise, they only receive compensation for very long-lasting possessions.

The freight Schedule 4 regime is structured so that there are three levels of compensation depending on the degree of disruption (with the possibility of compensation for actual losses for severe disruption).

As with the passenger regime, higher payments are made for late notice possessions. Freight operators do not pay an ACS to cover the expected costs of Schedule 4 compensation.

Paragraph 4.2 in statement of claim.