

2007-08
**Annual report
and resource accounts**

**THE SAFETY AND ECONOMIC
REGULATOR OF BRITAIN'S RAILWAYS**



OFFICE OF RAIL REGULATION



OFFICE OF RAIL REGULATION

Office of Rail Regulation Annual report and resource accounts 2007–08

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Formal report to the Secretary of State and Scottish Ministers

To the Secretary of State for Transport and the Scottish Ministers

I enclose the report of the Office of Rail Regulation (ORR) for year ending 31 March 2008 as required by section 74(1) of the Railways Act 1993 and the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc) Order 1999.

I confirm that during the period ORR received no general directions under section 69(2) of the Railways Act 1993.

On 26 April 2007 ORR made a market investigation reference to the Competition Commission under section 131 of the Enterprise Act 2002.

A handwritten signature in blue ink that reads "Chris Bolt". Below the signature is a small blue arrow pointing to the right.

Chris Bolt
chairman, Office of Rail Regulation
June 2008

Chairman's foreword



“ We are convinced that well managed companies can deliver improved safety performance at the same time as improving customer service and delivering improved value for money. ”

This report, the fourth since the Office of Rail Regulation was established in 2004, covers a busy and challenging year for us as the independent safety and economic regulator of railways in Great Britain.

The review of Network Rail's outputs and revenues for the period from 2009 to 2014 reached a major milestone in July, with the publication by Ministers in Westminster and Holyrood of what they want the railways to deliver over the next five years, and the funding available.

We will set demanding but achievable targets for Network Rail at the culmination of the periodic review in October 2008, and will hold it to account for delivery. The company will then need to ensure it has the capabilities in place to meet the challenge over the next five years and beyond.

Network Rail has continued to improve its own performance in response to the targets set at the last review, and we welcome its ambition of being a world class company. But the experience of the last year is that it still has a long way to go to achieve this. For instance, our investigation into the over-runs at the New Year showed that there are still systemic weaknesses in the way Network Rail plans

and manages its projects, and in the way it collaborates with train operators to minimise the impact of engineering works on passengers and freight users.

Safety on the railway continues to be a priority for us all. Overall performance is good and improving, as demonstrated in the safety statistical report which we are publishing alongside this report. But we cannot be complacent, and if the industry is to deliver continuous safety improvement it needs to make further improvements in the way it operates to reduce risk both to rail users and employees. We are convinced that well managed companies can deliver improved safety performance at the same time as improving customer service and delivering improved value for money.

We recognise our responsibility to help ensure that the industry meets the needs of passengers and freight customers and delivers a safe, high performing, efficient and developing railway. Our actions during the year, using both our economic and safety regulatory powers, have demonstrated our readiness to take action when needed to achieve this. We have demonstrated – for example in our decision on the Crossrail access option – our ability to take difficult decisions which balance the differing interests

“ ORR too needs to respond to the challenge, and we are reviewing our own regulatory approach to ensure it remains fit for purpose. ”

of funders, operators and infrastructure managers, in accordance with our statutory duties.

The new process for the periodic review, introduced in the Railways Act 2005, has provided much needed clarity to the industry, and to Network Rail in particular, of what it needs to deliver. But the 30 year strategy published at the same time provided a clear challenge to the industry to show that it is capable of responding to significant continuing growth in demand, while continuing to improve its safety record, improving value for money to customers and taxpayers and making a further contribution to sustainable development.

The industry must respond vigorously and creatively to that challenge. By 2014, services to both passengers and freight customers will need to be transformed to meet increasing demand and service expectations. This will require both investment in the network and improved partnership between Network Rail, train operators and the supply industry.

ORR too needs to respond to the challenge, and we are reviewing our own regulatory approach to ensure it remains fit for purpose.

Determining strategy, and overseeing its delivery, is a key function of the Board. During the year, there was one change in membership, with Professor Jeffrey Jowell QC standing down and Dr Chris Elliott joining. All my Board colleagues – both executive and non-executive – are committed to the success of the industry and of ORR as its regulator. I pay tribute to them all and to all the staff of ORR for their continued support to me as I enter my fifth and final year as chairman.



Chris Bolt
chairman,
Office of Rail Regulation
June 2008

Chief executive's review



“ Our new, integrated structure has allowed us to strike the right balance between pushing Network Rail to be increasingly efficient whilst insisting on an improving safety record. ”

Introduction

This annual report and accounts covers the 2007-08 reporting year. It describes our key achievements in delivering the objectives set out in our corporate strategy 2006-09 and in our business plan 2007-08, which we published on 31 March 2007.

The report reflects the key activities in the corporate strategy:

- improving health and safety performance;
- securing improved efficiency and performance;
- securing robust plans for 2009 and beyond;
- improving and aligning relationships and incentives in the industry; and
- ORR as an effective combined safety and economic regulator.

Vision

We are now moving into the final year of our three-year corporate strategy, which provided the foundation for our 2007-08 business plan. We believe that the corporate strategy remains relevant and fit for purpose. However, we have also started working on our new strategy, which will run for five years from 2009 and which will, we believe, help us to add more value in a maturing industry and will underpin the improvements provided for by our periodic review 2008 (PR08).

Our long-term vision for the main-line railway industry is:

a successful partnership of Network Rail, operators, suppliers and funders, working together to meet the needs of passengers and freight customers, and to deliver a safe, high performing, efficient and developing railway.

Our safety and competition responsibilities extend across the wider railway industry in Great Britain, including the London Underground, metros and heritage railways. We carry out these responsibilities in accordance with our statutory duties and in line with our vision, outlined above.

During what has so far been a period of significant investment and improvement, our focus is on:

- securing continuous and sustained improvement in safety, performance and customer service;
- pursuing relentless improvement in the industry's efficiency and value for money; and
- through these and other actions, enabling the railway to grow and develop to meet the requirements of funders and the aspirations of stakeholders.

Our aim remains to apply independent, fair and effective regulation to enable the railway

to be safe, well maintained and efficient and to ensure that it provides value for money for users and for its funders.

Focused and effective regulation

We are committed to adopting best practice regulation, in line with the five principles of good regulation; proportionality, accountability, consistency, transparency and targeting.

We believe that the industry itself is best placed to lead the manner and method of running and improving the railways, as those delivering services understand best what their customers need and how to achieve it. That said, a robust framework of financial structures and incentives enables us to be clear where we will intervene to meet the wider public interest. We believe this to be the most effective and efficient way of fulfilling our statutory duties, whilst at the same time complying with the principles of better regulation.

Key priorities during 2007-08

Periodic review 2008

A major priority for 2007-08 has been PR08, which will set Network Rail's outputs and funding for 2009-14. The assessment of whether the aspirations of governments in Westminster and Holyrood are affordable within the funds available has been a core part of our work.

Network Rail has produced, and then updated its strategic business plan (SBP). We and the industry have also worked to improve the incentives framework and to further strengthen the monitoring of Network Rail. The review has been an open, consultative process and we aim to conclude it by the end of 2008-09.

Safety

Safety of course has been another priority. Our new, integrated structure has allowed us to strike the right balance between pushing Network Rail to be increasingly efficient whilst insisting on an improving safety record.

We have continued our planned and proactive inspection and investigation work, with a focus on priority risk topic areas, including track, command and control signalling, level crossings and worker safety. Incident and complaint investigation has again been a feature of our health and safety work and we have continued to carry out our functions as required, working cooperatively and efficiently with other responsible agencies. For example, in the light of our investigation of the derailment at Grayrigg in February 2007, we issued Network Rail with an improvement notice in respect of its track patrolling work.

Chief executive's review

We have worked with industry stakeholders to ensure that the transition to the Railway and Other Guided Transport Systems (Safety) Regulations 2006 (ROGS) has been as smooth as possible and we have helped duty holders to transfer from the Railways and Other Transport Systems (Approval of Works Plant and Equipment) Regulations 1994 (ROTS) approvals system to the new ROGS regime. This process has generally been achieved successfully.

Performance

We have also continued to monitor industry performance very closely. Performance of franchised passenger operators across the network continued to improve over the year reaching an average of 89.9% trains which arrived at their final destination on time within industry tolerance for the first time since 2002. This is a great achievement and reflects the industry's commitment to cooperate in partnership to improve the service offered to passengers and freight customers. It also reflects the considerable commitment and energy we have devoted to monitoring Network Rail's performance.

Network Rail

Within this overall improvement, there were aspects of Network Rail's performance, which raised concerns. In particular, problems on the western route continued - although there were improvements towards the end of the year.

During a period of mostly successful, heavy investment into Britain's railways, we found Network Rail in breach of its licence in relation to the possession overruns that occurred at Portsmouth and then at New Year at Rugby, Liverpool Street and Shields Junction. With time running short to complete the planned works to the west coast main line before the December 2008 timetable upgrade, we worked hard to complete our investigation and in turn required Network Rail to satisfy us that further plans to deliver the timetable are robust. We also required it to address systemic weaknesses in the planning of engineering work. We levied a penalty reflecting the seriousness of our concerns.

Access to the network

We have directed contracts for access to the network to allow important new services, such as Wrexham Shropshire and Marylebone Railway and to facilitate significant investment, namely access options for both Crossrail and the east London line. On 17 January 2008, following a lengthy consultation with the industry we published our final conclusions on access options, incorporating "use it or lose it" and "buy-back" mechanisms.

Competition

Our concurrent powers under competition law remain a key focus. In April 2007 we made a market investigation reference to the Competition Commission under section 131 of the Enterprise Act 2002 in respect of the leasing of rolling stock for franchised passenger services and related maintenance services. We also dealt with a number of complaints and enquiries and we published a plain English guide to complaints about rail fares and car parks.

Sustainability

Over recent years, business and industry have increasingly focused on assuring the sustainability of goods and services provided. In April 2007, we published our sustainable railway policy clarifying how we will use our regulatory powers and influence to work to develop a sustainable railway as part of a sustainable transport system.

Europe

During the year we focused significantly on Europe, with greater involvement in key working groups, and much better coordination of our involvement. Working closely with the European Rail Agency, we are playing a full part in the development of an integrated European railway system and we are the first safety authority in Europe to take part in a peer review of our safety certification processes.

Corporate strategy

We began working on developing our new corporate strategy. As well as dedicating important resource to reviewing our performance and looking to the future, we have engaged with the industry to discuss their needs over the next control period. We intend to provide further formal and informal opportunities to feed into this work over the coming months.

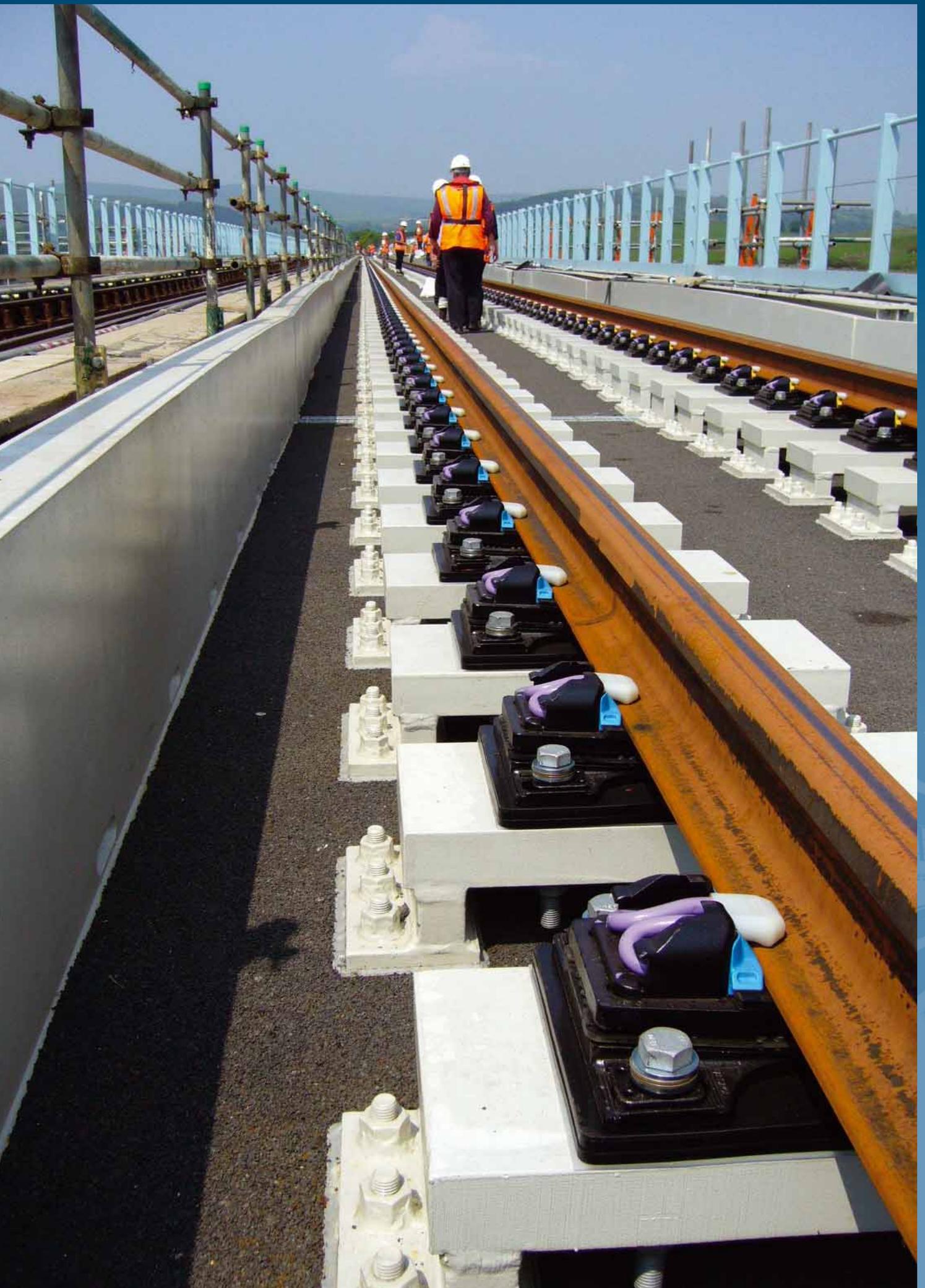
Developing ORR

We improved the efficiency and effectiveness of our corporate services. In December 2007 we introduced a new integrated pay and grading system for our employees and throughout the year we worked to enhance and update our business continuity and disaster recovery capabilities. We believe it is important that we demonstrate tight control of our costs and resourcing with the call on industry resources only being increased where this adds value against our public interest objectives. I am pleased to report that once again we achieved our goal of being an RPI-2 regulator.

Our continued success is due to the diligence and hard work of our staff and on behalf of the Board and the senior team I would like to pay tribute to them.



Bill Emery
chief executive,
Office of Rail Regulation
June 2008



1. Improving health and safety performance

Railway safety has continued to improve this year - injuries to and assaults on employees, train incidents, and signals passed at danger, all fell. Our approach to railway safety builds on the opportunities we have as an integrated regulator to promote continuing improvements in both efficiency and safety performance. The companion railway safety statistical report 2007 gives detailed information on the railway industry's safety performance during the 2007 calendar year.



1. Improving health and safety performance

“ ORR believes there are considerable benefits to be gained from collaborative working ”

Inspection (proactive intervention activity)

We completed and summarised our 2006-07 planned proactive inspection of Network Rail's activities and passed the findings to Network Rail and other stakeholders. We found that Network Rail's safety management system was sound, delivering passengers on an infrastructure that was in safe condition, and with an improving record on workforce safety. Our inspection plan for Network Rail in 2007-08 was finalised, and inspections undertaken throughout the year. Inspectors have provided reports to Network Rail on each item of work, and a summary of the outcomes is currently under preparation.

Our investigation of the derailment at Grayrigg in February 2007, together with the emerging findings from the Rail Accident Investigation Branch (RAIB) investigation led us to check by inspection the quality of Network Rail's track patrolling regime across the country. We found deficiencies with the system indicating it was not as robust, nor operating as Network Rail intended. As a result we served an Improvement Notice in December 2007 requiring Network Rail to make changes, by 31 March 2008, to the way track patrolling was organised and managed. We have met

with Network Rail since 31 March 2008 and their response was satisfactory to meet the requirements of the Notice. However, before we sign it off as complied with we will do some further inspection work to ensure their intended actions are translated to actual actions on the ground.

Our national train and freight delivery plan sets out our inspection work with the mainline train and freight companies. During the year we examined some of the safety systems within these companies including their management of risk, management of change, driver competency, fatigue and on-board train protection warning system equipment. We will produce a summary of our findings and share them with the rail industry in September 2008.

Our inspection work with contractors concentrated on the top 10 infrastructure renewals companies. We carried out assignments designed to validate the elements of the companies' safety management systems described in the Railways and Other Guided Transport Systems (Safety) Regulations 2006 (ROGS). This is the first year of a 5-year programme covering the life of the safety certificate. We have liaised with Network Rail on



the design and introduction of their new licensing system for contractors and suppliers, and inspected their work package planning process for managing the safety of contractors working on their network. This has been an improvement on previous practice, but more work needs to be done next year as part of a wider programme.

During the year we undertook inspections of London Underground Limited's management of the platform-train interface, safety critical communications, and change management. We also inspected track and signals maintenance and the safety of workers in the companies that maintain the underground network under the Public Private Partnership contracts. We also carried out a series of inspections in response to Metronet Rail BCV Limited and Metronet Rail SSL Limited entering administration, to obtain assurance of their continued ability to maintain track, signals and rolling stock.

The number of enforcement notices we issued decreased - 22 compared to 28 in 2006-07. The general decline in complaints about safety issues we received continues (down from 644 to 510). Details of the numbers of enforcement notices issued, prosecutions heard and complaints received over the past five years are in the casework activity table in Appendix 1. The reduced number of complaints and notices is in line with data

in the Railway Safety Statistical Report 2007 that shows a continuing, though modest, improvement in safety.

Incident and complaint investigation

We have investigated a number of safety incidents, including two fatal accidents. These were an employee who sustained an electric shock while fault finding on a train, and an employee who came into contact with 25Kv overhead line equipment (OLE) for which a freight operating company was prosecuted. We also completed our investigation into a fatal accident to a sub contractor who fell down a ventilation shaft at Fareham Tunnel on 14 March 2004. Following our investigation and having taken advice from leading Counsel, no prosecution will result from this accident. Improvements to duty holders' systems and processes have, however, been made.

Other key investigations have included;

- a number of near misses with pedestrians and vehicles on user worked crossings (UWC) and fatal accidents at other crossings, including to a 17 year old in Northumberland who was hit by a freight train;
- instances of train doors opening on moving trains; and
- incidents involving road rail vehicles (RRV), including one that hit a redundant 11Kv overhead power line and an RRV that overturned and fell from a viaduct.

This is the second full year since the Rail Accident Investigation Branch (RAIB) became responsible for investigating incidents on Britain's railways. RAIB's remit is to carry out a no blame investigation into railway incidents and to determine the root cause. We remain responsible for investigating incidents to determine whether any breaches of health and safety law occurred and for taking enforcement action as appropriate. Cooperation on site between ORR and RAIB where both parties have been investigating has been very good.

During the year we asked the Health and Safety Laboratory (HSL) to undertake a review of RAIB recommendations. HSL reviewed 34 RAIB reports and;

- categorised the issues arising;
- identified common issues and recommendations; and
- provided a view on the quality of recommendations.

The report is published on the ORR website (*Review of RAIB investigations and recommendations- RSU/RM/07/02*).

Over the course of the year, RAIB told us that it was formally investigating 40 incidents. It published 74 reports with 257 recommendations. RAIB is required to address its recommendations to the national safety authority, usually ORR. If RAIB has recommendations for a public body or authority it will address these recommendations

directly to these bodies. We consider recommendations addressed to us, and where appropriate ensure they are acted upon. In addition, we report back to RAIB on the measures taken to implement RAIB recommendations.

We implemented 74 recommendations covering a range of issues, including fatigue management, rolling stock modification, standards of track maintenance on private freight lines, and use of the hazard brake in tram operation.

Ufton Nervet

On Saturday 6 November 2004, a First Great Western London Paddington to Plymouth train derailed when it hit a road vehicle on Ufton level crossing, near Ufton Nervet, Berkshire. Seven people were killed and 37 people were taken to hospital. The inquest into the incident took place in October and November 2007. The verdicts in the inquest were that the car driver committed suicide and that all others were unlawfully killed as a result of the misuse of the crossing by a road vehicle. The Coroner did not consider it was necessary to use his powers to make any report with regard to issues of health and safety recommendations as ORR was undertaking its rail safety regulation role effectively.

Grayrigg

The circumstances of the derailment at Grayrigg in February 2007 where one person died and 22 were

seriously injured have been investigated by RAIB, British Transport Police (BTP) and ORR. RAIB completed its technical investigation before Christmas and is preparing its final report for publication in summer 2008. BTP is investigating whether there was any serious breach of criminal law and the ORR is investigating any breaches of health and safety law.

Potters Bar

Following the derailment at Grayrigg, the inquest into the deaths of those who died at Potters Bar on 10 May 2002 remained adjourned pending further advice from the Secretary of State for Transport as to whether an inquest remained the appropriate way forward.

Public inquiry report recommendations

The Health and Safety Commission's recommendation process charted progress on the implementation of the 295 recommendations made in the inquiries into Southall and Ladbroke Grove and the Joint Inquiry into Train Protection Systems. Of the original 295, three recommendations remain which continue to be monitored by ORR:

(a) Joint Inquiry Report Recommendation 22

Pilot schemes using ETCS or ETCS elements should be carried out.

Action on: Railtrack, TOCs, Rolling Stock Companies (ROSCOs).

Target for completion: not specified.



Progress on (a): Plans for the full fitment of the European Rail Traffic Management System (ERTMS), led by Network Rail, are under way on the Cambrian line with implementation due in 2009.

(b) Joint Inquiry Report Recommendation 25

The selective fitment of GSM-R radio in advance of ETCS fitment to trains should be considered. For this purpose lines should be identified for the early fitment of ground and track equipment, to be followed by train-borne equipment (para 11.27).

Action on: Railtrack, TOCs, ROSCOs

Target for completion: January 2004.

(c) Ladbroke Grove Rail Inquiry Part 1 Report – Recommendation 51

There should be a national system of direct radio communication between trains and signallers (para 12.29).

Action on: Railtrack, TOCs

Target for completion: June 2003

Progress on (b) and (c) recommendations: Work on GSM-R continues. Trial use began in Strathclyde in October 2007 and will be expanded as more drivers are trained in the use of the equipment. National implementation of GSM-R is expected in 2012. Implementation has been delayed by technical challenges in developing the required equipment. We will continue to monitor the progress on these recommendations.

Topic strategies

Risk-based topic strategies, drawn up to support our business planning, have continued to influence our inspection and investigation activities during the year. We worked to address the priority risk topic areas, including track, command and control signalling, level crossings and worker safety.

Work on track, including switches and crossings, has continued to focus on the management of catastrophic risk precursors on Network Rail and London Underground Limited infrastructure.

Activity on communications and signalling has included helping duty holders to transfer from the Railways and Other Transport Systems (Approval of Works and Plant Equipment) Regulations 1994 (ROTS) approvals system to the ROGS regime. We have monitored the introduction of 'assessment in the line' for Network Rail staff, with a particular emphasis on how signalling and telecommunications competences are assured, kept up to date and recorded. We also recognised and supported the industry's strategic thinking on European rail traffic management systems train protection and deployment of train-borne signalling equipment, whilst continuing to work with the industry to ensure existing train protection arrangements function appropriately.

A series of inspections by our field teams looked into the



adequacy of arrangements to set up safe systems of work when on or around the track. These visits have informed discussions with Network Rail about programmes to improve the behaviours that lead to non-compliance with instructions and procedures, as well as other initiatives to improve the safety of rail workers. This work continues.

Level crossings remain a higher risk area. We worked to improve our understanding and control of risk at user-worked crossings. We met authorised and corporate users, to understand their needs and problems and assess how Network Rail is meeting the challenges presented by private crossings. A number of themes have emerged that will require attention to ensure suitable risk control. Our monitoring and review of Network Rail's implementation of its new crossing risk assessment regime has continued, supported by inspection work to ensure crossings are properly maintained.

We believe there are considerable benefits to be gained from collaborative working. Our work on route crime has included involvement in cross-industry community safety partnership groups, and joint working on educational initiatives focused on deterring trespass by children and young people. Bridge strikes continue to be a problem and we have continued to support the Department for Transport's

(DfT) multi-agency bridge strike prevention group in developing a proactive approach to reducing this risk. We also continued our work with DfT, local authorities and duty holders to deal with the risks posed from accidental vehicle incursion.

Good management of occupational health risks is essential for those who work in the industry. We presented a discussion paper on occupational health to the railway industry advisory committee (RIAC), which prompted a useful discussion on key issues, particularly around the issue of poor data on occupational health. We continue to meet with rail companies to explore how they collect and use occupational health data. Occupational health will be a regular item on future RIAC meeting agendas. We are also committed to work with the industry through membership of the rail personal security group, convened by the Rail Safety and Standards Board (RSSB) to reduce the incidence of work-related violence.

Statutory obligations

ROTS will no longer apply to new works (other than trams and heritage railways) from October 2008. We have been working with the industry to ensure that outstanding schemes are closed before the deadline or alternative arrangements under the ROGS are put in place.

Most train operating companies have now submitted their applications for safety authorisation

and certification as required under ROGS, using the guidance we produced in partnership with the Association of Train Operating Companies (ATOC) last year. Feedback on our acceptance process has been positive and our inspectors have now started programmes of validation of particular elements of the safety management systems over the life cycle of the certificate.

Network Rail applied for authorisation to operate the national infrastructure under ROGs and this was granted at the end of May. We discussed with Network Rail aspects of the meaning of reasonable practicability, and how this should be reflected in its management system. We also talked to ATOC about system risk and the duty of cooperation, and how the various organisations in the railway system relate to each other under ROGS.

We authorised Section 2 of the Channel Tunnel rail link in November. Section 2 completed the high-speed connection between St Pancras and the Channel Tunnel. The authorisation was in accordance with European interoperability directives. We continue to work on the approval of the connections to the national network for the proposed high-speed domestic services from Kent.

Heathrow Terminal 5 opened early in 2008. We assessed and approved the three railway projects serving the new terminal. The Heathrow Express

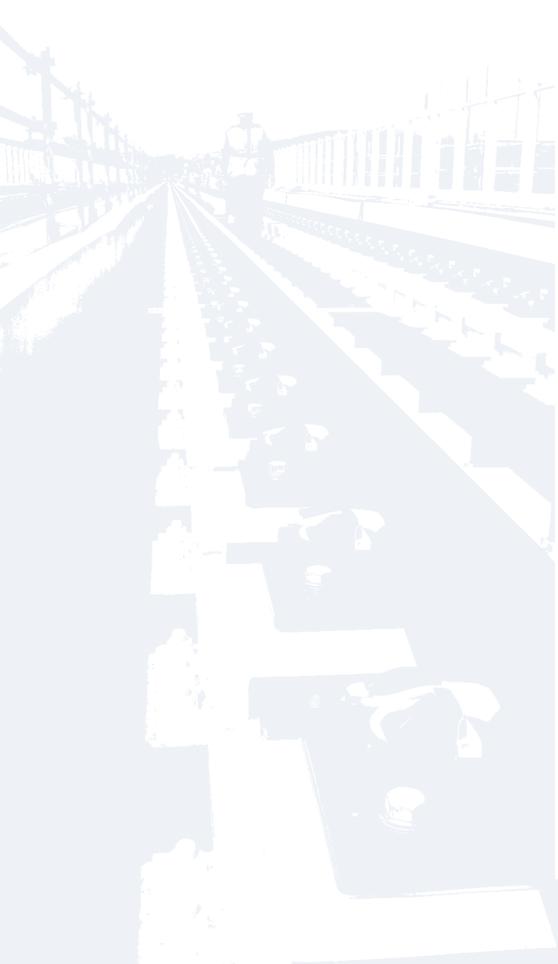
and Piccadilly underground lines now extend from the existing stations at Terminals 1, 2 and 3 to a new station under the Terminal 5 building. An underground transit system will also run between the main terminal building and its two satellites on the airport apron. Trialling and testing of the three systems progressed throughout the year.

Further detail on the numbers of ROGS certificates considered, ROTS approvals, interoperability authorisations and level crossing orders are in the permissioning activity table at Appendix 1.

Legislative development and ROGS evaluation

We commissioned Bomel Limited for a three-year independent project to monitor and evaluate the ROGS regulations. The project follows principles of best practice in regulatory evaluation and progress reports will be published annually. The first report (the baseline) was published on the ORR website in February 2008. Early findings are that:

- Most respondents agreed or strongly agreed that standards of safety have, so far, been maintained under ROGS.
- ROGS is starting to change the way industry is managing safety, with some organisations developing better company standards rather than relying on the content of their safety case. Respondents also said that the regulations place a greater emphasis



“ Good management of occupational health risks is essential for those who work in the industry ”

on the requirement to have robust safety management systems in place and increase the focus on certain specific issues such as managing fatigue in safety critical workers.

- ROGS appear to be impacting on safety-related decision making by, for example, initiating a review of change management processes.

We have developed simplified guidance on ROGS, in consultation with all rail sectors and trade unions. The guide has been awarded the plain English campaign's crystal mark for clarity and was published in November 2007 on our website.¹

We continue to work with the tramway and heritage sectors to address their concerns about ROGS, including developing sector-specific guidance. We announced in October 2007 that we did not believe that the safety verification elements of ROGS would impose unreasonable, unexpected or inappropriate burdens on the heritage and tramway sectors. However, we are keen to work in partnership to develop sector-specific support and guidance.

The ROGS industry liaison group brought together industry representatives to work on the changes needed to implement ROGS. It continued to meet until RSSB's 'ROGS one year on' conference in November

¹ http://www.rail-reg.gov.uk/upload/pdf/342-ROGS_gdnce_nov07.pdf

2007 and was an excellent example of the industry and ORR working together.

Other policy developments

We carried out a scoping exercise to review level crossing legislation. This captured a broad spectrum of interests, and emphasised the need for the level crossings regulatory regime to be brought up to date. We are exploring options for how to best accomplish this, including engaging with the Law Commission. We also reviewed our guidance on level crossings (railway safety principles and guidance part 2 section E), partly in response to the RSSB and RAIB reports into the level crossing incidents at Elsenham and Black Horse Drove. We currently expect to carry out a significant rewrite of the guidance during 2008-09.

We have worked closely with DfT on implementing new European Directives (on train driver licensing, and working time for drivers of cross-border railway services) and our safety certification teams helped DfT to deliver a smooth transition to three new franchises at the end of 2007.

We worked with the mainline industry during the development of the revised railway group standard GE/RT 8270 on assessment of compatibility of rolling stock and infrastructure.

The memorandum of understanding (MoUs) between ORR, RAIB, BTP, Association

of Chief Police Officers (ACPO) and ACPO (Scotland) formalise the working arrangements between these agencies when investigating incidents and handling recommendations that stem from them. We initiated a review of the MoUs in January 2008. This review seeks to ensure that these documents, originally signed in March 2006 (Scotland) and April 2006 (England and Wales), remain fit for purpose and enable all agencies to work together efficiently. We anticipate that the review will conclude in summer 2008, once any proposed changes have been agreed by all the organisations involved.

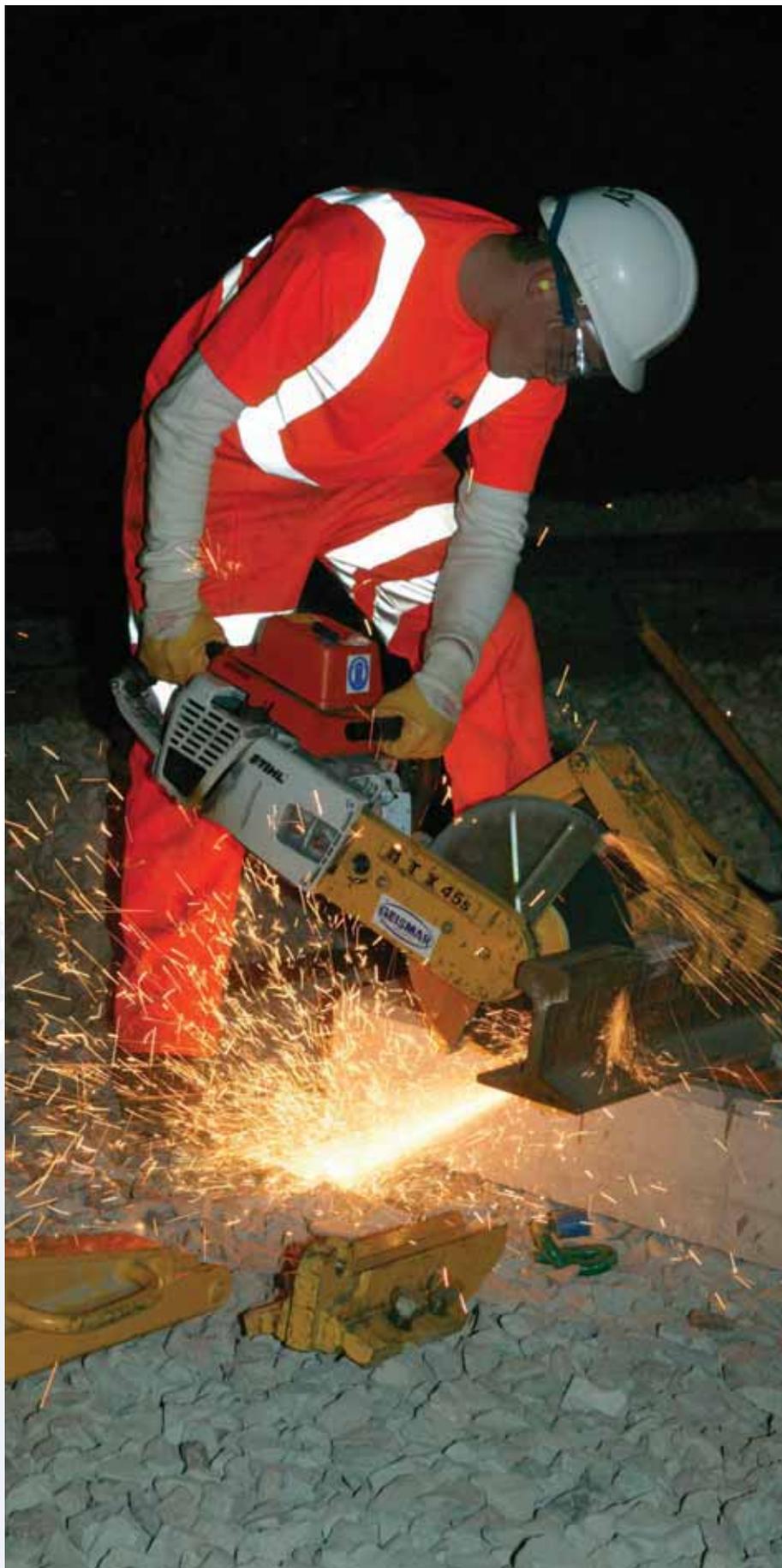
We continue to discuss safety benchmarking and performance indicators with senior managers of the train company owning groups and are discussing with ATOC and RSSB our views on a suitable suite of leading and lagging safety indicators for train operators. We are also working closely with the industry on the lessons from recent major investigations (the Baker report into the Texas City explosion and Buncefield oil refinery fire).

Channel Tunnel Safety Authority

The Channel Tunnel Safety Authority (CTSA) is an independent bi-national body whose responsibilities are set out in the Treaty of Canterbury between the UK and France and which reports through the Channel Tunnel Intergovernmental Commission to both the UK and French Governments. It does not report to ORR. However, ORR provides two members to the UK delegation and the staff of the UK secretariat.

Industry research and development programmes

During the year we contributed to the various forums established to oversee and develop a research programme for the mainline industry funded by DfT and managed by RSSB. Our own safety research committee also contributed to DfT's rail industry research strategy (RIRS), which was published in December 2007.



Development of position statements on key risk areas

Following the positive response to the publication of our policy statement on level crossings, we published a further statement of policy in February 2008. This was on managing the risks that come about as a result of people's mistakes and, as with the statement on level crossings, this received a crystal mark for plain English.

The use of cost benefit analysis in support of safety related decisions

We consulted external stakeholders on our revised guidance on the use of cost benefit analysis. Throughout the reporting period, we continued to work closely with RSSB to inform its safety decisions programme and taking safe decisions guidance suite of documents. During 2008-09, we plan to revise and consult external stakeholders on our guidance for assessing whether health and safety risks have been reduced so far as is reasonably practicable.



2. Securing improved efficiency and performance

As with safety, trends in the efficiency and performance of the railway are positive, reflecting significant efforts by all parts of the industry.

Our aim is to ensure that there are strong and sustained incentives for continuous improvement, that any areas of weakness are effectively addressed and that where there are barriers to improvement we play our part in removing them. Our activities therefore embrace monitoring and reporting, enforcement and facilitation.

2. Securing improved efficiency and performance

“ We have continued to work with the industry to encourage continuous sustainable development improvement ”

Regulatory policy, enforcement and approvals

Network Rail’s network licence review

We initiated a review of Network Rail’s network licence to assess whether it remains fit for purpose and to examine key areas where it can be strengthened. This was against the background of our emerging conclusions on the structure of Network Rail’s outputs, its incentives and our enforcement policy, together with the requirements of the better regulation agenda. We developed some changes in principle and explained our thinking to the industry at a workshop in September 2007. We began detailed discussions with Network Rail and developed our proposals further during the rest of the year.

To ensure that Network Rail’s obligations to deliver outputs in control period 4 (CP4) and our proposals for the network licence are aligned, we consulted in August 2007 on the form and structure of those outputs. More details of this appear in chapter 3.

Influencing and enforcement action

We identified a number of areas of concern about Network Rail’s performance during the year.

Many of these were resolved without the need for formal enforcement. We continued to work with the industry to improve performance using the joint performance improvement programme (JPIP) mechanism where the parties were content to do so. Experience shows that this is more effective in getting companies to work together on ambitious improvement plans than the previous approach of local output commitments. It provides an effective tool with which we can track progress and a basis on which we can intervene if necessary. An example of this way of working, which runs true to our ethos of the industry running itself, was our support for First Capital Connect’s concerns about its 2007-08 JPIP which we took up with Network Rail and which led to more robust plans being put in place and a good performance end result.

In other cases, our concern remained. Performance of First Great Western services continued to be poor throughout the year, in part as a result of high levels of the delays for which Network Rail is responsible. In late summer

we warned Network Rail that unless it brought these delays back down to the levels projected in the 2007-08 JPIP we would consider taking action for breach of its network licence. The delays did indeed reduce but it has only been since the end of 2007-08 that better performance by both Network Rail and the train operator has combined to deliver significant improvement in overall punctuality.

In some cases we took enforcement action against Network Rail. These were in relation to overrunning engineering work at Portsmouth, the planning and execution of engineering work requiring possessions, and the delivery of the west coast route modernisation programme.

Portsmouth

We found Network Rail in breach of condition 7 of its network licence in June 2007 in the light of its failure to evaluate and mitigate adequately the risks associated with a resignalling project at Portsmouth and for failing to manage its contractor in line with best practice. In particular, it failed to consider and plan for the possibility of an extended overrun of the commissioning works, and the consequential effect on passengers. We imposed a penalty of £2.4m on the company.

Engineering overruns and west coast route modernisation

At the beginning of January 2008, following serious overruns of engineering work at three locations on the network, we announced an urgent investigation:

- (a) to investigate the circumstances surrounding the late notice planned extension of engineering work at Rugby, and the major engineering overruns at Rugby and Liverpool Street over Christmas/New Year. This included investigating any relationship between those events and delivery of planned works elsewhere on the network over this period (for example at Stevenage and Shields Junction), the impact of the events on train operators and their customers (passenger and freight), and the extent to which Network Rail contributed to mitigating the impact; and



(b) to investigate the robustness of Network Rail's plans for the remaining work to enhance the west coast main line (WCML) to meet its regulatory obligations and to enable the planned December 2008 service upgrade.

We published the report of our investigation on 28 February. We concluded that, although much engineering work went well, there were systemic weaknesses in Network Rail's approach which manifested themselves from time to time in an unacceptable impact on passengers and freight customers. We decided that these weaknesses constituted a continuing breach of Network Rail's licence. We made an order requiring the company to address the weaknesses and report to us that it had done so by 31 December 2008. We also required it to submit a plan to us to show how it would do so after consulting its customers and funders. To provide an incentive on Network Rail to secure continuing compliance with its licence obligations, we imposed a financial penalty of £14m for this breach.

We also concluded that Network Rail was likely to breach its licence in relation to the west coast route modernisation programme. This was because Network Rail did not have an adequate plan to deliver the infrastructure capability required for the improvements in services planned for the December 2008 timetable. We made an

order requiring Network Rail to produce a plan in consultation with its stakeholders and to send it to us by 31 March.²

We concluded that Network Rail's action in scheduling an additional day's engineering work for 31 December 2007 at short notice contravened industry timescales and therefore represented a further breach of its licence. In this case we took no further action as we considered that, following an unforeseeable combination of problems encountered at a late stage during the preparatory work, Network Rail had little option but to extend the planned possession, given the importance overall of the west coast programme.

Delivery of recovery plan

Capability: Network Rail met the final milestone in its recovery programme on time at the end of September 2007. We therefore consider that it has met the requirements of the notice that we issued on 2 March 2006 under section 55(6) of the Railways Act when we found Network Rail in breach of Condition 7 of its network licence. We will continue to monitor the timely resolution of any outstanding discrepancies between actual and published capability and Network Rail's forward programme for ensuring that the relevant information is kept up to date in a more readily accessible format.

² We have subsequently confirmed that Network Rail's revised plan complies with the requirements of the order.

Penalties statement

After imposing penalties on Network Rail for the breaches on infrastructure capability and at Portsmouth, we reviewed our (economic) penalties statement and compared it to the approach adopted by other regulators. We consulted on amendments to our statement in the autumn. We have considered consultation responses and are reviewing our statement in the light of these and other developments since last year.

Network Rail land disposals

Together with Network Rail, we commissioned the independent reporter, Halcrow, to carry out a review of Network Rail's land disposal processes and procedures. Halcrow recommended that, if Network Rail tightened up some processes and procedures we should allow it to take a greater lead in the disposal process in line with the principles of better regulation.

In November 2007 we consulted on our proposals to change our regulatory arrangements so that there would be more emphasis on Network Rail consulting its stakeholders effectively and delivering acceptable proposals to them. This would make Network Rail more accountable and reduce our level of intervention – but without compromising the protection for railway-required land. The consultation closed on 22 February 2008. We concluded that new arrangements should be in place from 1 April 2008 and we published these in our

document *Land disposal by Network Rail: the regulatory arrangements*, at the end of March.

Notices, consents, approvals under the network licence

We consulted on 15 land disposal cases during the year. Two had conditions attached to ensure that Network Rail fully closed out some remaining issues prior to disposal. We also consented to Network Rail's proposal to become a notified body in particular circumstances. This allowed Network Rail to continue with the certification of third-party rail vehicles when they meet the applicable standards. We issued a notice to Network Rail on its 2008 business plan which recognised that the strategic business plan it developed for PR08 would serve as its plan for the last year of the control period. We also approved the form and content of the 2008 and 2009 annual returns in December.

Monitoring and reporting

We continued to build on the improvements that we initiated in 2006-07, implementing the actions arising from stakeholder research. The quarterly *national rail review* continued as our principal monitoring output for the industry, supported by *national rail trends*, which provides statistical data on the industry, the *Network Rail monitor*, which comments on a quarterly scorecard of key performance indicators (KPIs) and the *annual assessment of Network Rail*.

Annual assessment of Network Rail

We published the fourth annual assessment of Network Rail's performance on 14 September 2007 (two weeks earlier than in previous years). The annual assessment highlighted the company's progress towards achieving targets from the access charges review 2003, its own business plan for 2006-07 and compliance with the requirements of the network licence.

Network Rail monitor

We published four quarterly editions of the *Network Rail monitor*. The monitor tracks progress against key performance indicators (safety, performance, asset management and financial efficiency) and Network Rail's delivery of its major projects.

National rail review

We published four editions of the *National rail review*, examining issues across the industry. Articles included the seven day railway, an overview of rail industry finances, a review of key market trends in the industry, comment on Passenger Focus's national passenger survey and the summer flooding.

Requirements for effective monitoring in the next control period, including network availability/possession efficiency

We began a review of the monitoring framework to meet the requirements of the next control period. The revised framework takes into account the shift in emphasis from "fixing the basics" in control period 3 (CP3) to providing the extra capacity required by a healthy, growing rail industry in CP4. The principles underlying the revised framework were published in our draft determinations on 5 June 2008.

Rail statistics

National rail trends

We met the target date (5 July 2007) for web publication of the national rail trends (NRT) yearbook 2006-07. Hard copies were published in September 2007.

Q1 – (April – June) was published on 17 October 2007

Q2 – (July – September) was published a week early on 13 December 2007

Q3 – (October – December) was published on 31 March 2008

Our consultants Delta Rail undertook a review of NRT at the end of 2006 and all appropriate recommendations from that review were implemented for the yearbook 2006-07 publication.

Providing an independent overview of industry performance

We improved the notes and methodology sections in 2006-07 yearbook. We carried out an NRT Stakeholder Assessment in autumn 2007. The overall feedback on the publication was very positive, although a number of specific recommendations emerged (for example, the inclusion of passenger counts data, a project being run and managed by DfT). These recommendations are being introduced through the quarterly publications and the 2007-08 yearbook.

We have also agreed that appropriate safety data will be included in the 2007-08 national rail trends yearbook to be published in July 2008.

Commitments to Eurostat and management of the data supply chain

We have not been able to meet fully our commitments to Eurostat during the year due to the inability of the industry to provide data disaggregated at the level required by Eurostat (i.e. by government region). This issue has been escalated within Network Rail and DfT and a more pragmatic solution is being sought.

Throughout the year, we made a number of improvements to the management of our data supply chain. Contracts were re-negotiated and we worked with data suppliers to establish improved systems of work, processes and improved data quality.

Development of data/information catalogue and implementation of the data code

We undertook a major review of this work in the third quarter of 2007-08. This resulted in refocusing the activity to meet more effectively the industry's requirements for data, including producing a catalogue of industry datasets and continuing development of a data code – a consistent cross-industry approach to the assessment of data accuracy and reliability.

Licensing

During the year we completed 48 licensing cases. We also dealt with over 80 enquiries. Details of cases closed during the year are in Appendix 2.

Significant cases included new and outgoing franchisees in the autumn and two new open access passenger train operators: Grand Central Railway Company Limited and the Wrexham, Shropshire and Marylebone Railway Company Limited. We also granted a licence to Freight Europe (UK) Limited, a subsidiary of French national operator, Société Nationale des Chemins de Fer Français (SNCF).

We granted licence exemptions mainly to heritage railways, and to the operators of maintenance trains used during engineering possessions.

We delivered our business plan commitment to develop a more focused approach to licence exemptions. Our crystal marked consultation ran from November 2007 to February 2008. Our proposals for reducing the licensing burden on minor operators were widely welcomed and we implemented them on 1 April 2008.

Asset management

Some important milestones were achieved during the year. Following the comprehensive evaluation of Network Rail's asset management regime last year, the independent asset management reporter Asset Management Consultants Limited (AMCL) completed a major piece of work defining how Network Rail should be developing its maturity in asset management. Using their experience from international rail comparators and other asset intensive industries, AMCL produced a realistic and achievable trajectory for



the continuing development of Network Rail's asset management processes. Key milestones will enable us to chart this development at April 2009 (the start of CP4) and in June 2011 and October 2012. The latter two dates are expected to be critical for the periodic review for CP5.

One of the priority areas identified for further action was the need to improve the asset policy documents that had been published by Network Rail in 2006. A revised suite of policy documents was published with the strategic business plan in October 2007. These policies are critical to the overall quality and cost effectiveness of the maintenance and renewal of the infrastructure assets. Much of our work in reviewing the proposed expenditure plans for CP4 has focused on assessing the extent to which the policies move beyond a description of current engineering practice into a well documented justification for an infrastructure asset management regime that delivers defined outputs at minimum whole life cost. Progress has been made in this area, but as with all aspects of asset management, we will continue to monitor developments in the longer term beyond PR08.

The year also saw the culmination of Network Rail's work on its asset information strategy. It has made steady progress since the asset register guidelines were amended in 2005 to provide a clear definition of compliance with the requirements of condition 24 of Network Rail's licence. The six core tasks that constitute the compliance framework were completed in September 2007, and Network Rail certified to us its belief that it has complied fully with its licence obligations. AMCL undertook a final review of the overall process, and their final report was received at the end of March 2008.³

³ We have since confirmed that Network Rail is compliant with the requirements of licence condition 24.

Route utilisation strategies

Route utilisation strategies (RUS) establish plans for the efficient use and development of the railway. They are important in ensuring robust plans are in place for the future. It is Network Rail's responsibility to lead on the development of RUSs.

We want to make sure everyone is aware of the RUS work and that stakeholders can plan their contributions to it. We therefore require Network Rail to publish a RUS programme. We approved its revised programme in January 2008 and this is available on Network Rail's website.⁴

There are 17 geographical RUSs plus Freight and Network RUSs in the programme. Network Rail develops each RUS, steered by the relevant stakeholder management group (SMG) at each of the development stages: scoping, baseline, options and recommendations. We are an observer at these SMG meetings and we provide advice and assistance. Network Rail submits each RUS to us and we assess it. We have 60 days to decide whether to issue a notice of objection in relation to any RUS, and we take account of stakeholder responses.

In 2007-08, Network Rail developed and established four RUSs on time, namely Scotland, freight, north west and Greater Anglia; the east

coast main line RUS was established on 29 April 2008 and the south London RUS was published on 31 March 2008. All the remaining RUSs have commenced except for the west coast main line RUS.

In 2007-08, we did not object to any RUSs, reflecting the fact that we believe they are of good quality and meet our requirements. In January 2008 we conducted a brief review of the RUS process and guidelines. Overall we concluded that the RUSs are of a good standard and improving and that no major changes were needed. We took soundings from the industry and found this view was widely held. However, better progress needs to be made in some areas such as the Network RUS and we have required Network Rail to address these. We may also review some aspects of the overall RUS process as part of the network licence review.

⁴ [http://www.networkrail.co.uk/
aspx/4449.asp](http://www.networkrail.co.uk.aspx/4449.asp)

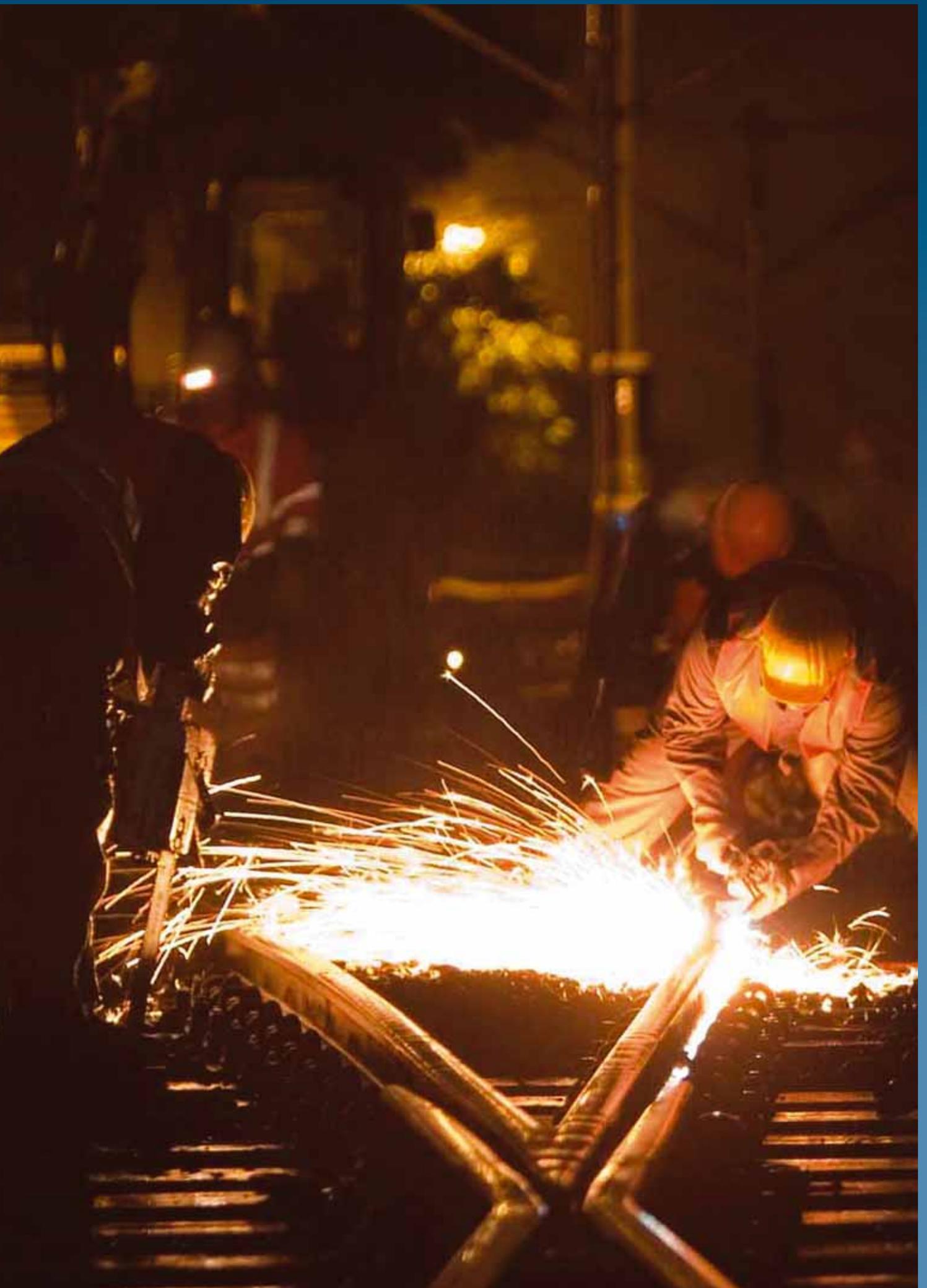
Sustainable development

In April 2007 we published our final conclusions on our sustainable development and environment duties. This included our policy on sustainable development. In line with one of the outcomes of these conclusions, we received a commitment from the industry in December 2007 to publish a number of environmental key performance indicators (KPIs), which will measure, monitor and be publicised to a wide audience. We believe that publication of this data will assist the industry in understanding any underlying changes in performance and how actions undertaken across the industry can influence future trends.

The industry has agreed that we should publish KPIs that relate to traction energy consumption and related carbon dioxide emissions. During the year we have been working with the industry to develop these KPIs and we will publish the first set in our July 2008 national rail trends yearbook. The industry has also committed to produce a number of other indicators that will be developed at a later date.

Another of our commitments was to publish revised environmental guidance setting out the issues that licence holders should address within the environmental policies they are required to produce and regularly review under their environmental licence condition. Following consultation with the industry, we issued the revised guidance in December 2007. It incorporates details of the KPIs that the industry has committed to produce. This substantially completes the actions identified in our conclusions on sustainable development.

During the year we have continued to work with the industry to encourage continuous improvement through our participation in such forums as the sustainable development steering group, the rail sustainable development group, the noise policy group and the carbon reduction working group.



3. Securing robust plans for 2009 and beyond

2007-08 was an important year in the development of the framework to ensure that Network Rail and the industry have robust plans for 2009 and beyond. Key milestones were achieved towards the successful completion of our periodic review of Network Rail's outputs and access charges and these will help us to achieve our objective to:

ensure an outcome to the review which secures value for money for users and taxpayers, by determining the level of Network Rail's access charges and outputs in a way that balances the interests of all parties.



3. Securing robust plans for 2009 and beyond

“ To improve the alignment of incentives facing Network Rail and train operators for the benefit of the industry as a whole ”

Periodic review

PR08 will determine Network Rail's outputs, revenue requirement and access charges for control period 4 (CP4), which runs from 1 April 2009 to 31 March 2014. We published our draft determinations on 5 June 2008, setting out the outputs that Network Rail must achieve in CP4 and the track and station access charges payable by train operators and other users of stations. Following consultation, our final determinations will be published on 30 October 2008. The final levels of individual access charges and associated price lists, and the formal access charges review notice that starts implementation of our determinations, will be published on 18 December 2008.

The Secretary of State and Scottish Ministers provided us in July 2007 with the information about what they want to be achieved by railway activities during the next control period (their 'high level output specifications' (HLOSs)) and the public financial resources that they are making available for the period ('statements of public funds available' (SoFAs)). In determining the outputs and access charges for the next control period as well as taking account of the HLOSs and SoFAs, we also take account of the reasonable requirements of all Network

Rail's customers and funders, including freight and open access train operators.

The strategic business plan

Network Rail published the industry's strategic business plan (SBP) on 1 November 2007. The plan contains Network Rail's proposals for operating, maintaining, renewing and enhancing the infrastructure in the next control period and its estimates of the revenue it would need to deliver this work. Network Rail produced the plan with its industry partners. The plan sets down its assumptions about the respective contributions of Network Rail and franchised train operators to delivering all the Governments' output requirements. The plan also includes other outputs. We published our initial assessment of the SBP in February 2008, and provided feedback to Network Rail on what it needed to improve for its SBP update (which it published to us in April 2008).

Our assessment of the SBP ran through to June 2008 when we published our draft determinations. Our assessment involves a detailed and thorough review of all the material proposals and assumptions made by Network Rail in its SBP. To that end we met directly with Network



Rail to clarify and challenge its proposals, took advice from consultants, and asked the independent rail reporters to review key parts of the plan. We also consulted the industry on the SBP and met directly with many industry parties to understand their views on the SBP.

Structure of charges

Throughout 2007-08, work progressed to determine the structure of track and station access charges for CP4 as part of PR08. Network Rail continued to develop its charge proposal in the light of our charging objectives and guidance.⁵ It published its indicative charge proposal along with its SBP. We were involved in discussing and reviewing various aspects of this proposal during its development and then made an assessment of the SBP charges proposal in our February 2008 update on the framework for setting access charges and SBP assessment. The assessment identified aspects of the proposal that we decided should be followed in CP4 e.g. the inclusion of lateral forces into the methodology for allocating variable usage charges between vehicle types. It also identified areas where further work was required by

⁵ Our charging objectives are set out in paragraph 2.5 and our charging guidance in chapter 4 of *Periodic review 2008: Structure of track access and station long-term charges*, Office of Rail Regulation, June 2006. This may be accessed at <http://www.rail-reg.gov.uk/upload/pdf/291.pdf>

Network Rail e.g. in relation to its proposal for the capacity charge for CP4.

We continued to lead on a number of structure of charges issues in 2007-08:

- developing the form of a freight only line charge to apply to certain freight traffic. We consulted on cost allocation and the charging system between June and October 2007;
- assessing the case for introducing a reservation charge. We commissioned consultants NERA to carry out a cost/benefit study and we decided in February 2008 not to implement the charge in CP4 but to keep it under review while attempting to make alternative administrative solutions more effective; and
- establishing a process to facilitate the transfer of funds between Network Rail and passenger transport executives (PTEs)/Transport for London reflecting changes in Network Rail's costs resulting from the latter's decisions to either increase or decrease the level of train services.

Regulatory financial framework

For CP4 and beyond, we intend to establish a financial framework for Network Rail that enhances the incentives on the company to strive for continuous improvements in performance and efficiency. During the year we continued to work closely with Network Rail,

DfT and Transport Scotland to establish a framework that meets our objectives whilst also considering the requirements of others.

In September 2007, we published our financial issues update and further consultation letter.⁶ That letter considered the following financial framework issues: the allowed return and financeability; calculation of the opening CP4 regulatory asset base (RAB) and how the RAB will be rolled forward during CP4; our approach to corporation tax; the balance between network grant and track access charges in CP4; and other financial issues (e.g. pensions, the treatment of inflation and re-openers).

We concluded on the majority of the policy issues for these areas in the February 2008 update on outputs and access charges and SBP.⁷ We also set out in February, our conclusions and emerging thinking on a number of other detailed financial framework issues.

⁶ *Financial issues update and further consultation*, Office of Rail Regulation, September 2007. This may be accessed at www.rail-reg.gov.uk/upload/pdf/pr08-financial-issues-let-060907.pdf.

⁷ *Update on the framework for setting outputs and access charges and strategic business plan assessment*, Office of Rail Regulation, February 2008. This may be accessed at www.rail-reg.gov.uk/upload/pdf/351.pdf

Incentives framework

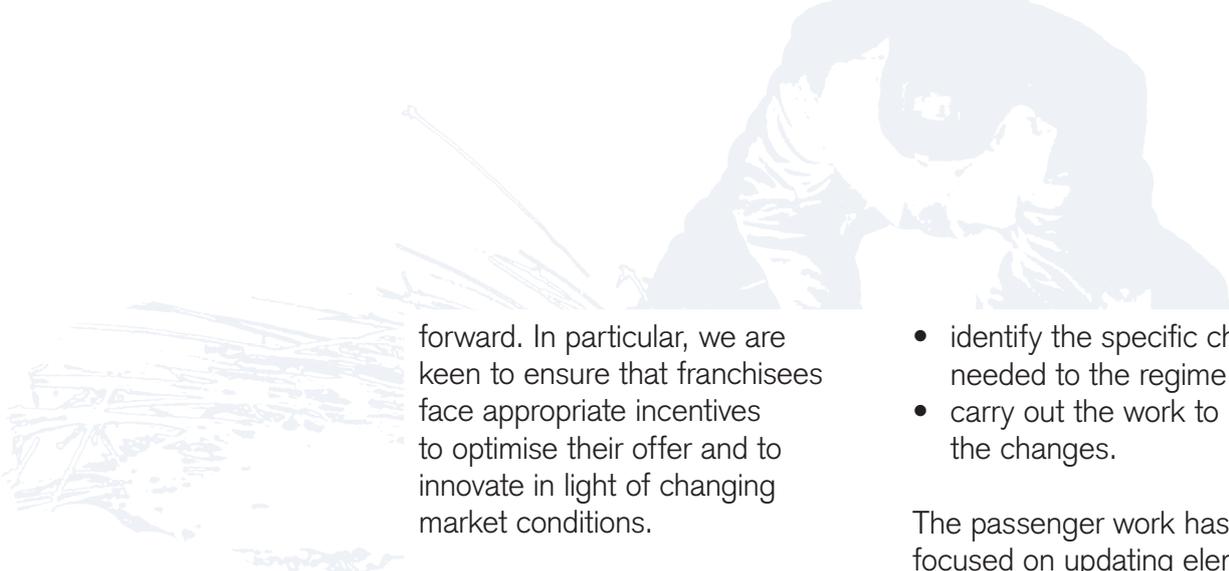
As part of PR08, we are undertaking a comprehensive review of the incentives facing Network Rail and its industry partners. A particular objective of this workstream is to improve the alignment of incentives facing Network Rail and train operators for the benefit of the industry as a whole.

We have continued to engage extensively with the industry on developing our proposals for CP4 to:

- refine the explicit volume incentive to encourage Network Rail to respond to greater than anticipated demand growth;
- enable the industry to fine-tune the inputs to delivery of the HLOSs in light of emerging information; and
- provide an efficiency benefit share mechanism to incentivise train operating companies and freight operating companies to play a greater role in encouraging Network Rail to improve its efficiency.

As a result, we were able to conclude in our February update on the framework for setting access charges and strategic business plan assessment document on the overall shape of these mechanisms.

In areas where we, as regulator, do not have direct powers, in particular in relation to the franchise regime, we have continued to work closely with Government and train operators to establish the appropriate way



forward. In particular, we are keen to ensure that franchisees face appropriate incentives to optimise their offer and to innovate in light of changing market conditions.

Possessions review

In January 2007 we asked the industry to undertake a review of possessions compensation paid through schedule 4 of track access agreements and part G of the network code. One of the aims of this work was to ensure that all compensation should be paid through schedule 4 only, to ensure a consistency of approach and remove potential boundary issues. The industry submitted its recommendations to us in January 2008. We have been an observer in and acted as secretariat to the industry group developing the recommendations. We consulted on the proposed passenger compensation arrangements in April 2008 and our conclusions were published in our draft determination. Due to ongoing work on the freight regime, we expect to consult on the proposed way forward in July 2008 prior to publishing our conclusions in August 2008.

Performance regime

Work has been going on throughout 2007-08 to review the performance regime provisions both for passenger and for freight operators for CP4. We chaired two industry groups each of which met regularly to:

- propose and consult on the objectives of the work;

- identify the specific changes needed to the regime; and
- carry out the work to make the changes.

The passenger work has focused on updating elements of the regime that were last reviewed at the access charges review 2003 e.g. updating Network Rail and train operator benchmarks (the former being informed by Network Rail's performance output trajectory).

The freight work has focused on simplifying and standardising the regime as far as possible. This has included making some parts of the regime standard across freight operators rather than specific to individual operators. The aim was to ensure that the performance regime does not act as a competitive advantage to any one operator.

Efficiency

Assessing Network Rail's scope for improving efficiency going forward is a key component of PR08. Our determinations must provide strong incentives on Network Rail to strive for continuous and sustained improvements in efficiency.

There are two components to our work on efficiency:

- we are thoroughly reviewing and challenging the efficiency analysis that Network Rail has submitted to us in support of its SBP; and
- we are undertaking our own analysis to assess Network Rail's scope for efficiency. In particular, this includes benchmarking

of Network Rail's maintenance and renewals costs, and its asset management practices against international peers; and a thorough assessment of key elements of operating costs.

Expenditure assessment

Operating expenditure

We were disappointed with the support Network Rail provided for its operating expenditure (opex) assumptions in the SBP. We engaged further with the company and appointed consultants to assist us in addressing some of the material issues, e.g. insurance, which we have taken account of in our draft determinations.

Maintenance and renewal

We undertook detailed assessment of Network Rail's maintenance and renewal proposals for CP4. This included assessing the quality of the asset policies being applied to determine Network Rail's maintenance and renewal activities, and the justification for those policies in terms of the extent to which they demonstrate the efficient minimum whole life cost solution for managing the infrastructure. Our assessment also included 'on-the-ground' sampling of Network Rail's proposed activities to test the robustness of its plans.

Enhancements

We have undertaken an initial assessment of Network Rail's proposed

enhancement expenditure in CP4. Our assessment has been based on a combination of bottom up review of detailed costs, risk allowances and scope (where feasible); a top down assessment primarily involving benchmarking; and an assessment of potential efficiency improvements due to technological or process changes. We have also reviewed the proposed delivery arrangements for schemes, particularly the risk allocation.

High level output specifications

As mentioned above, the Secretary of State for Transport and Scottish Ministers submitted their high level output specifications (HLOSs) and statements on the public financial resources available (SoFAs) to us in July 2007.

In the period up to July 2007 we worked closely with Government to provide advice on the development of the HLOSs and to ensure we had a common understanding of how the process would work going forward.

After the publication of the HLOSs Network Rail provided, on behalf of the industry, its SBP setting out how the HLOSs could be delivered.

Our key task was to decide whether the HLOSs are affordable. To do this we needed to consider not only Network Rail's likely revenue requirements but also franchise



subsidy requirements, and we also reviewed information on this provided to us by DfT and Transport Scotland.

We decided that we should aim to provide the earliest possible indication of whether there was likely to be an affordability problem and so we published an initial view on 20 December 2007. In essence, our view was that the HLOSs were likely to be affordable. We published more detail on our assessment of this in our February document.⁸

DfT published a rolling stock plan in January 2007. We need to ensure there will be alignment between rolling stock and infrastructure plans and we worked jointly with DfT and Network Rail on this.

Structure of Network Rail outputs in CP4

At the end of August 2007, we consulted on our proposals for the form and structure of the outputs that Network Rail should deliver in CP4. In our document *Periodic review 2008: Network Rail's outputs - a consultation document*,⁹ we explained the general framework that we proposed to adopt and described our proposals for individual elements

of Network Rail output. These covered the key areas of health and safety; train performance; network capacity; network capability; network availability; asset serviceability; stations; depots; customer satisfaction; network planning and timetabling; and environmental performance. We also outlined a process that would allow Network Rail, in certain circumstances and subject to our approval, to change the targets it will specify in its delivery plan for CP4.

Our aims are to provide assurance:

- that key output obligations (including those specified in the HLOSs) are defined across the network and are enforceable if necessary;
- that these extend to new areas, such as network availability, where experience shows that there is a need; and
- that, where appropriate, these are supplemented by local specifications developed in partnership with train operators.

Our conclusions were published in our February document.¹⁰

“ Our determinations must provide strong incentives on Network Rail to strive for continuous and sustained improvements in efficiency ”

⁸ *Update on the framework for setting outputs and access charges and strategic business plan assessment*, Office of Rail Regulation, February 2008. This may be accessed at www.rail-reg.gov.uk/upload/pdf/351.pdf

⁹ Available at www.rail-reg.gov.uk/upload/pdf/338.pdf.

¹⁰ Available at www.rail-reg.gov.uk/upload/pdf/351.pdf.

09:53¹⁰

Special Notice

Security Notice

In the interests of station security please do not leave luggage unattended at any time whilst on the station

10:15 Platform - Hastings

via Tunbridge Wells
Calling at: Page 1 of 2
Waterloo East
London Bridge
Orpington
Sevenoaks
Tonbridge
High Brooks
Tunbridge Wells
Frant
Maidhurst
Stonegate
Etochingan
Robertsbridge
Battle
Crowhurst
ells
Southeastern

10:17 Platform - Dartford

via Bexleyheath
Calling at: Page 1 of 1
Waterloo East
London Bridge
Lewisham For DLR
Blackheath
Kidbrooke
Eltham
Falconwood
Melling
Bexleyheath
Barnehurst
& Dartford.
Southeastern



4. Improving and aligning relationships and incentives in the industry

In exercising our role of approval of access agreements and granting licences, and in our approach to further development of the network code, we have continued with our ‘focused and effective’ approach. We aim to give the industry greater responsibility for managing its processes and to reduce the extent of regulatory intervention while continuing to provide the necessary protections to industry parties.

Our work on market studies and the investment framework has also focused on identifying both where regulatory action may provide significant benefits, and where processes can be improved to reduce the need for it.

Among key developments in the year was publication of our policy on access options, which is designed to facilitate increased third party investment in the railway, and consideration of two major access option applications in the London area.



4. Improving and aligning relationships and incentives in the industry

Give the industry greater responsibility for managing its processes

Track Access

Access applications

Under the Railways Act 1993 (the Act), we are responsible for the fair and efficient allocation of capacity of railway facilities through our determination of the terms of the access contracts under which train operators gain access to the rail network, stations and light maintenance depots. The Act provides for applications to be made on an agreed basis between an applicant and Network Rail (or any other facility owner) under section 18. When the applicant has not reached agreement with the facility owner, it can apply under section 17, which gives ORR the power to determine the form of the access contract and direct the facility owner to enter into it. The Act contains similar provisions covering the approval of amendments to existing contracts (details of directions and approvals are set out in the table in Appendix 2).

Passenger track access contracts

During the year we directed new track access contracts under section 18 between Network Rail and East Midlands Trains, CrossCountry Trains, London and Birmingham Railway, London Overground Rail Operations and London & South Eastern Railway. In addition,

we approved extensions of the track access contracts between Network Rail and Heathrow Express, Stagecoach South Western Trains and c2c Rail.

On 30 January 2008, we directed Network Rail, under section 17 of the Act, to enter into a track access contract with Wrexham, Shropshire and Marylebone Railway (WSMR) for new direct services between Wrexham and London Marylebone. This followed our decision on WSMR's application which we announced on 31 August 2007.

On 12 December 2007, we approved an amendment to Arriva Trains Wales/Arriva Trenau Cymru's track access contract under section 22 giving it the rights to operate services on the reopened line between Cardiff Central and Ebbw Vale Parkway.

At the end of the year we were considering an application from Northern Rail under section 22A to direct Network Rail to grant it rights to run services between Leeds, Sheffield and Nottingham.



Freight track access contracts

During the year, we considered and approved a number of supplemental agreements amending Network Rail's track access contracts with English Welsh and Scottish Railways Limited (EWS), Freightliner, Freightliner Heavy Haul and Direct Rail Services. We also approved five-year access contracts between Network Rail and two new operators, SNCF and Freight Europe (UK), and new long-term access contracts up to the principal change date 2016 for Freightliner, Freightliner Heavy Haul and GB Railfreight.

Eleven operational freight operators now have access to Network Rail's network for freight movements.

Additionally, we approved a supplemental agreement to extend the access contract between Wensleydale Railway and EWS for access to the Redmire Branch.

Throughout the year we held meetings with prospective freight operators and non-train operators, such as port and terminal owners, who expressed an interest in holding track access contracts. At these meetings we provided guidance on the regulatory processes.

Criteria and procedures for the approval of passenger and freight track access contracts

In July 2007, following consultation with stakeholders,

we issued our Way Forward¹¹ document on the review of our criteria and procedures for the approval of track access contracts. This set out a phased approach for implementing the conclusions of our review, the aim of which was to give more responsibility to the industry for its contractual arrangements.

In October 2007, we issued a new general approval permitting greater scope for parties to amend their access contracts without the need for our specific approval. After discussion with an industry working group, in December 2007, we issued a code of practice setting out how the industry, led by Network Rail, should undertake consultations on track access applications when it assumed responsibility for this on 1 January 2008. We also published a document describing how we would adopt a more focused and effective approach to our scrutiny of track access applications.

In March 2008 we consulted on proposed general approvals for passenger and freight contracts, which would increase the categories of amendments that can be made to access contracts without the need for our specific approval. This will further reduce unnecessary bureaucracy and enable the industry to make those changes more quickly. We aim to issue the general approvals early in 2008-09.

¹¹ <http://www.rail-reg.gov.uk/server/show/nav.1656>

In summer 2008 we will be issuing the industry code of practice for track access application consultations and other documentation produced as part of the review of our criteria and procedures. This will also contain improved guidance on how to complete our model track access contracts.

Appeals

During the year we determined three appeals against decisions made by the access disputes panel:

- (a) First Capital Connect appealed against the decision of the access disputes panel determination ADP 21 that works being carried out by Network Rail on the East Coast Main Line did not fall within the definition of “major project” under the network code. On 27 July 2007 we determined that the appeal should be upheld.
- (b) Network Rail appealed against the decision of the access disputes panel determination ADP 20 concerning compensation payable by Network Rail to First Greater Western for certain restrictions of use. On 4 October 2007 we determined that, of the twelve of the panel’s findings which were the substance of the appeal, six should be upheld and six should be rejected.
- (c) Network Rail and Freightliner Heavy Haul appealed against the access dispute panel determination ADP 23 relating to the transfer of certain quantum firm rights

and associated train slots and adjustment of certain cordon caps pursuant to part J.7 and J.8 of the network code. On 16 January 2008 we determined that the appeal should be upheld.

In June 2007, we concluded that we did not have the power to hear an appeal which Grand Central Railway Company had lodged under the Railways (Access to Training Services) Regulations 2006. Grand Central had asked us to direct GNER to allow Grand Central’s drivers access to its cabs on reasonable terms for the purpose of driver training. Regulation 4(1) concerns obtaining training services whenever such training is necessary for the fulfilment of requirements to obtain a safety case or safety certificate. As Grand Central had already obtained a safety case prior to the date of its application, we concluded that regulation 4(1) did not apply to Grand Central’s circumstances and that we did not have the power to hear the appeal.

Access options

On 23 August 2007, following consultation, we published emerging conclusions on our approach to considering applications for access options. This included the incorporation of a ‘use it or lose it’ mechanism and a buy-back mechanism within access options.

On 17 January 2008 we published our final conclusions on access options policy and



a document explaining how applications for access options would be considered and what they should contain.

On 11 February 2008 we directed Network Rail to enter into a track access option with Transport for London. This will reserve capacity between New Cross Gate, Crystal Palace and West Croydon as part of the extension of the east London line. In March 2008 we received a joint application from Transport for London and Network Rail for a track access option in respect of the North London Railway enhancement project. This would reserve capacity on the routes between Stratford, Richmond and Clapham Junction.

In July 2007 we received an application under section 18 from Network Rail and DfT (on behalf of the Secretary of State) for approval of a 50-year track access option to reserve access rights for DfT's planned Crossrail passenger services on Network Rail's network. Following a rail industry hearing on 1 February, we issued a 'proposed' decision on 3 March 2008, which concluded that we were minded to award a track access option for a term of 30 years, from the start of Crossrail services, with the requested number of access rights in the peak and shoulder peak periods, but with two fewer paths per hour in each direction in the off peak and at weekends. We confirmed our proposed decision on 14 April 2008 and we expect to issue directions during 2008-09.



Network code

During 2007-08 the following work was completed in relation to the network code:

- (a) on 17 August 2007 we approved amendments to the delay attribution guide (DAG) to complete the process of tidying up the document started by the changes approved in January 2007;
- (b) on 1 October 2007 we approved changes to the network code to:
 - (i) ensure that all relevant third parties are consulted where appropriate;
 - (ii) improve clarity, and to take into account the abolition of the Strategic Rail Authority and the establishment of ORR as the independent economic and safety regulator;
 - (iii) ensure that part M aligned with other parts of the network code and reflected the way in which we considered appeals; and
 - (iv) introduce a new short-term network change process within part G (network change).
- (c) on 3 October 2007 we approved changes to Part J (changes to access rights) of the network code to:
 - (i) widen its scope to include contingent access rights;
 - (ii) incorporate a new appeal mechanism (condition J14);
 - (iii) remove a potential obstacle to the use of condition J5;
 - (iv) include more appropriate timescales for Network Rail to respond to a train operator's proposal to

- surrender or adjust rights;
- (v) ensure that level two rights are not precluded from being removed from an access contract under the failure to use process; and
- (vi) ensure that counter notices issued under part J are notified to all relevant parties.

Stations and depots

We are responsible for approving both new contracts and amendments to existing contracts for access to stations and light maintenance depots. Although the number is relatively small, there has been an increase in the number of contracts that we direct under section 17 of the Act because the parties are not able to agree (2006-07: 0, 2007-08: 4).

Stations access casework

In March 2007, Grand Central Railway Company applied under section 17 for access to York station. The application arose because Grand Central stated that it did not have sufficient information to calculate appropriate charges. We issued our decision in June 2007 and directed GNER to enter into a contract with Grand Central.

In September 2007, East Midlands Trains applied under section 17 for access to Luton Airport Parkway station. This application was made because the parties could not agree on the charging arrangements. In December 2007 we directed First Capital Connect to enter into an access contract with East Midlands Trains.



Stations code

We have continued to work with the industry to facilitate the implementation of the stations code, a more streamlined, efficient and effective contractual framework for station access. The code was finalised in July 2006 but, to date, no industry parties have adopted it. This is disappointing but we continue to encourage the industry to accede to the stations code as soon as possible.

Depot access

Grand Central Railway Company submitted an application under section 17 for access to Newcastle Heaton light maintenance depot, where Northern Rail is the depot facility owner. The parties could not agree on payment terms. On 10 October 2007, we directed Northern to enter into an access agreement.

We have continued to discuss with the industry possible ways of improving the depot access regime.

Franchise re-mapping

Towards the end of 2007 four new franchises and one concession were created: east midlands, west midlands, cross country, east coast and London overground. This re-mapping led to significant numbers of new station access contracts and amendments to existing ones. In the period from October to December we processed 207 items of casework related to stations and depots access. In the corresponding period in 2006 we dealt with 44.

Investment

In June 2007 we published our conclusions on a rebate mechanism for investors in large scale enhancements to the network. These broadly implemented the mechanism set out in our draft conclusions of December 2006, but clarified the scope of the mechanism, the way in which the rebate charge would be calculated in practice and how we expected the mechanism to work for capacity enhancements.

In September 2007 we published our second annual review of Network Rail's investment activity, including schemes promoted by third parties. Network Rail is in the process of revising the template agreements available for third party investment. During the year we worked with stakeholders and Network Rail to decide what changes the company must make to the templates so they can be approved by ORR. The revisions will improve the default balance of risk between Network Rail and investors, which our consultation suggested has been a barrier to investment in the past.

Throughout the reporting year we have provided guidance on and interpretation of ORR's policy framework for investment. This has included advising

Network Rail, funders and scheme promoters on how the guidelines apply to them, for example confirming whether the planned expenditure and

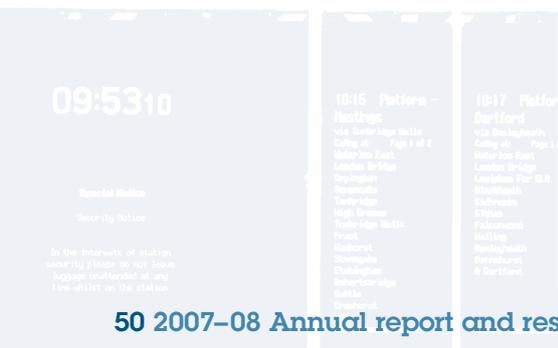
process for the delivery of an investment scheme meets our criteria for addition of the expenditure to the RAB.

Competition casework and consumer enquiries

During the year we dealt with over 220 varied consumer complaints. A significant number of these complaints related to increases in fares and station car park charges and were closed on the basis of not being sufficiently indicative of the existence of an abuse under the law. Other complaints arose from a range of other consumer concerns relating to the retail experience.

In response to complaints relating to fares and station car park charges, we published a plain English guide *'Complaints about rail fares and car park charges: the role of competition law'*.¹² This guide is intended to provide more clarity on what factors are relevant to our assessment of a complaint and sets out a number of quick filters we will apply to help assess whether to take further action. A background paper providing the economic and legal assessment underpinning these processes was published on 22 January 2008.¹³

Last year we reported that our directions to English Welsh and Scottish Railway Limited (EWS) and co-parties to remove or modify certain contractual terms so as to remove their exclusionary effect, had been appealed to the Competition Appeals Tribunal (the CAT) by E.ON (a co-party). On 8 January 2008 the CAT published an Order giving E.ON permission to withdraw that appeal. Proceedings have therefore, ceased.



¹² http://www.rail-reg.gov.uk/upload/pdf/comp-cmplnts_rlfrs_cpk_chrgs.pdf

¹³ http://www.rail-reg.gov.uk/upload/pdf/comp-extrnl_prcng_fndgs.pdf

Mergers

We provided railway data to the Office of Fair Trading (OFT) on two railway mergers under consideration during the course of this year; the award of the East Coast Mainline franchise to National Express and the Cross Country franchise to Arriva. The OFT cleared both mergers under its recently revised *de minimis* exception, which raised the threshold for considering this exception from £400,000 to £10 million, subject to a case-by-case evaluation. In February 2008, the OFT again applied this *de minimis* exception to the award of the east midlands rail franchise to Stagecoach plc.

We also provided advice during the course of the year to the European Commission during its consideration of the proposed acquisition of EWS by Deutsche Bahn AG (DB), which was notified to the Commission on 14 September 2007.

After examination of the proposed merger and in the light of the undertakings given by the parties to resolve issues arising in relation to potential competition in France, the Commission concluded that the merger did not raise serious doubts as to its compatibility with the common market.

Market studies

2007-08 saw the continuation of our programme of market studies which aims to review the workings of all the significant markets associated with the railway sector.

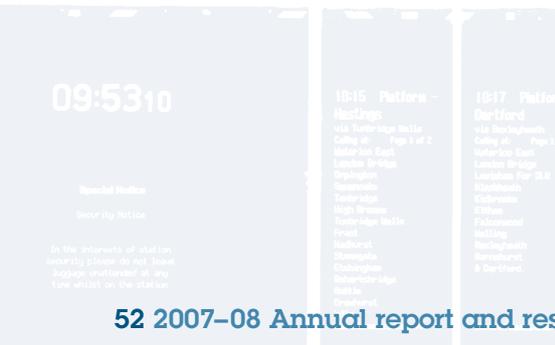
Another desk study involved us looking at railway investment schemes. Over the last few years, there have been a number of important developments aimed at facilitating investment in the railway by addressing barriers to the delivery of efficient investment. The objective of our study was to identify any limitations or restrictions on the provision of certain services by parties other than Network Rail i.e. the extent to which such services are in practice, 'contestable'. The results of our desk study provided no clear evidence one way or another to support regulatory intervention at this time. However, in the light of the fact that concerns continue to be raised with us regarding aspects of the arrangements for third party investment and in the light of our commitment to continue to keep this area under review, we decided to broaden the study to involve third parties in order to validate or otherwise the extent to which problems exist in the market(s). This will put us in a better position to determine the appropriate regulatory next steps.

We are currently seeking feedback from promoters and funders of third party investments on how the investment process is operating and whether there remain barriers to efficient investment and suggestions as to how these barriers can be overcome.¹⁴

Last year we reported on our decision to make a reference to the Competition Commission (CC) under section 131 of the Enterprise Act 2002 (EA02) for an investigation into the leasing of rolling stock for franchised passenger services and related maintenance services in Great Britain. That investigation is still ongoing. We made the reference on 26 April 2007. ORR's chairman attended a formal hearing in May 2007. The CC published its 'Emerging Thinking' in December 2007 and its published administrative timetable indicates that it will publish its final report in the autumn of 2008. We retain our interest in proceedings and have continued to engage with the CC at working level.

Concurrency

Concurrency refers to the powers to apply competition law in particular sectors, exercisable by the OFT or by the relevant sectoral regulator. ORR has concurrency for services relating to railways. As well as concurrent powers to apply and enforce the Competition Act 1998, the relevant sectoral regulators have concurrent powers to make market investigation references under the EA02.



¹⁴ See our current consultation: *Review of obstacles to third party investment*, available at http://www.rail-reg.gov.uk/upload/pdf/020508_tpi_letter.pdf

Regulators and OFT are committed to working closely together at both strategic and operational level and formally through the Concurrency Working Party and its sub-group on procedural matters. We continue to be fully represented at these groups and play a full role in contributing, to the development of competition policy.





5. Stakeholder relations

We believe it is vital to establish and maintain effective relationships with our stakeholders, in a way that allows constructive engagement. With that in mind, we are committed to working with, and listening to, those who use, deliver and fund the railways. We meet regularly with industry stakeholders to understand their needs and we consult extensively on our key activities. In the light of our 2006 stakeholder survey, we have developed a more structured and phased approach to consultations and have committed to a more proactive engagement with all our stakeholders.

We regulate an industry which attracts a lot of media comment and interest, and we believe it is important that we are effective at communicating our policies and approach to the media and through them to the wider public.

5. Stakeholder relations

“ We are committed to working with, and listening to, those who use, deliver and fund the railways ”

Communications

We held quarterly press briefings to coincide with the publication of the Network Rail monitor and national rail review. These gave transport and industry correspondents an opportunity to question ORR directors about issues affecting the rail industry. In February 2008, we held a press briefing for the publication of our report of the investigation into the overrunning engineering works at New Year 2008. During the year our chairman and chief executive had meetings with a number of leading transport journalists, and addressed a number of high-level industry conferences.

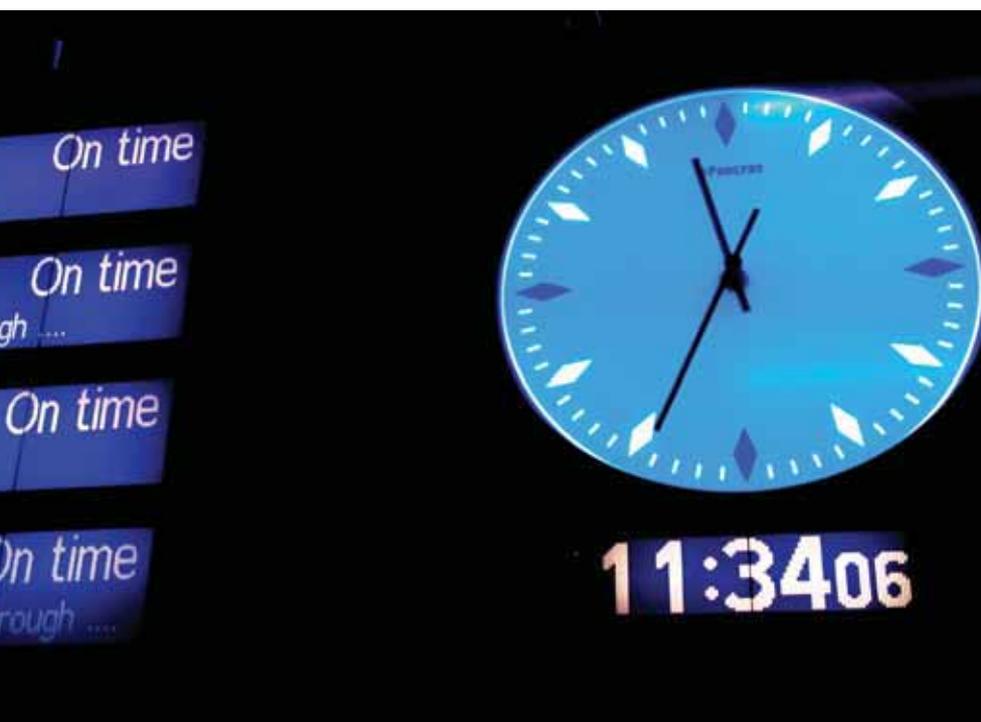
We published 36 press notices and 45 publications. We also dealt with day-to-day media enquiries, often resulting in interviews with the print and broadcast media. Our library welcomed 33 external visitors and dealt with 1295 external enquiries.

Our website and intranet are key sources of information for both external and internal stakeholders, and we kept these up to date during the year.

Customer correspondence and freedom of information

Our customer correspondence team (CCT) handles all public correspondence that we receive. This covers a variety of railway issues, including punctuality and reliability of train services, maintenance of the national railway network and health and safety on the railway. The team also handles Parliamentary Questions and correspondence from Members of Parliament. In the reporting year we received 1962 items of correspondence. We completed 1867 (95%) within 20 days (our target is 95% within 20 days). We contributed to 51 responses to Parliamentary Questions. January 2008 was the busiest month, with a number of enquires on fare increases and the New Year overrunning engineering work.

We received 176 requests for information under the Freedom



of Information Act 2000. 149 (85%) were completed within the 20 working day deadline. We aim to complete all such requests within the permitted deadline. However this year a number of complex requests were received that required extensive consultation with third parties which meant that these requests took longer than 20 working days.

The CCT can be contacted by email on:
contact.cct@orr.gsi.gov.uk

Railway industry

We held regular meetings at chief executive and director level with a full range of industry companies and organisations – including Network Rail, passenger and freight train operators and industry bodies and associations. In addition, we continued to discuss with industry stakeholders major policy initiatives, such as PR08 and significant track access issues.

We held a number of regular meetings to facilitate dialogue on health and safety issues. The railway industry advisory committee, chaired by Jim O'Sullivan, one of our non-executive directors, is the broadest forum for such discussions. The committee was set up in 1978 by the Health and Safety Commission, and currently comprises representatives from a wide range of interests within the railway industry (employers, trade unions, passenger representatives, employees,

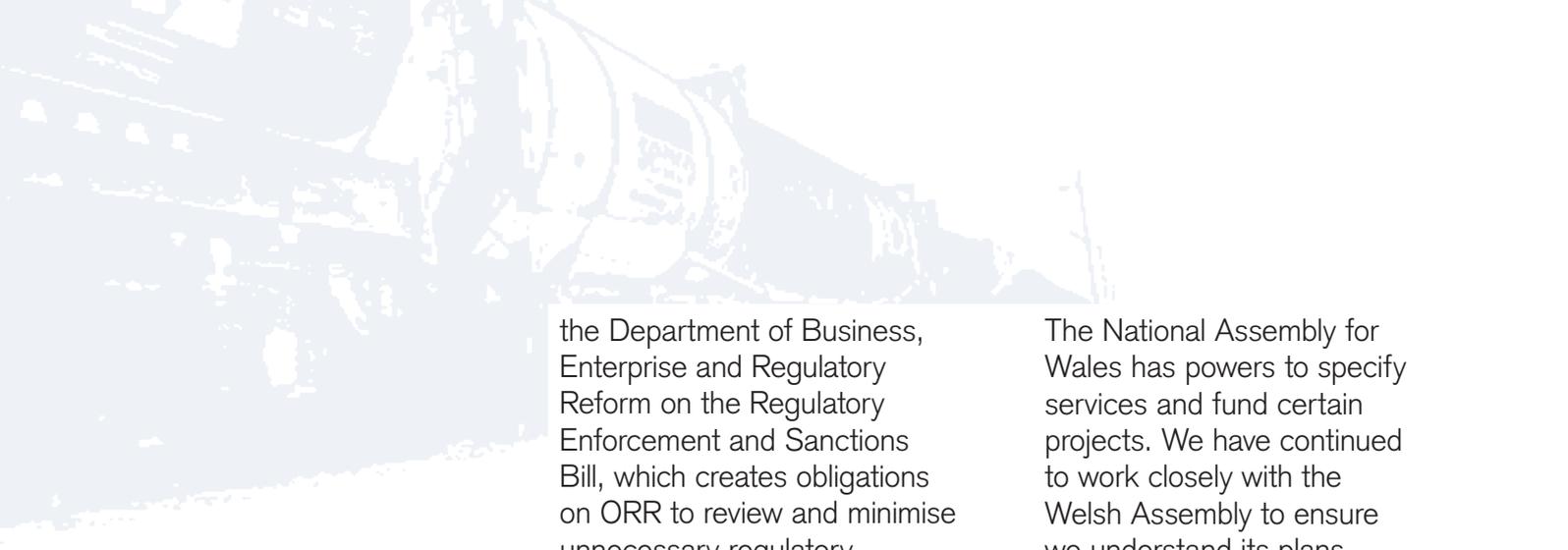
suppliers and government bodies). It provides advice to our Board on railway health and safety issues, exchanges information, and comments on proposed new guidance and regulations. The committee met three times in 2007-08, and a review of its effectiveness completed during the year concluded that the current membership, and frequency/format of meetings remained appropriate.

Department for Transport

We believe that effective communication between ORR as the independent regulator of the railways, and DfT as the primary public sector funder of the railways is essential. We held regular meetings including between our Chairman and chief executive and the Secretary of State for Transport.

In May 2007, the Secretary of State issued general guidance to ORR under the Railways Act 1993. We are obliged to take this guidance into account, alongside our other public interest duties, in the exercise of our economic regulatory functions. In July 2007 the Secretary of State published the white paper *'Delivering a Sustainable Railway'*, setting out the Government's rail strategy and its funding and specification for the railways. We welcomed both the guidance and the white paper as improving the clarity of government expectations of the railways.

In relation to other government departments, we worked with



the Department of Business, Enterprise and Regulatory Reform on the Regulatory Enforcement and Sanctions Bill, which creates obligations on ORR to review and minimise unnecessary regulatory obligations. We made an agency agreement with the Department of Environment, Food and Rural Affairs to allow our inspectors to enforce pesticides control legislation on railway premises.

Scotland, Wales and Northern Ireland

We continued to work closely with the Scottish Government, and its agency Transport Scotland, in its role as the primary funder and specifier of railway services in Scotland, particularly on the PR08. We received statutory guidance from Scottish Ministers in March 2007 and their specification of rail funding and outputs in July 2007.

The National Assembly for Wales has powers to specify services and fund certain projects. We have continued to work closely with the Welsh Assembly to ensure we understand its plans and objectives.

A memorandum of understanding was established between ORR and the Department for Regional Development, Northern Ireland, for the provision of advice and support on matters relating to railway safety in Northern Ireland. The first request for advice under this arrangement has now been received.

Regional/local funders

We continue to work closely with Transport for London, PTEs and other local funders to understand their priorities and how these can best be achieved. In particular, we worked with Transport for London and their concessionaire, MTR Laing, in implementing arrangements for the London overground network.



Olympic Delivery Authority

The London Olympic Games and Paralympic Games Act 2006 gave us a duty to “facilitate the provision, management and control of transport facilities related to the Olympics and to consult the Olympic Development Authority (ODA) as to how to do so.” We held quarterly meetings with both the ODA and also with Network Rail in order to ensure we were fulfilling this duty. As the Beijing Olympics approach and the planning for the London games accelerates, we will be examining further our role and how we work with stakeholders of the Olympic transport plan. We continue to work with the project sponsors to ensure that safety issues are addressed in the development of the rail transport projects required for the Games, and in the plans for rail operations during the Games.

Other regulators

We have worked closely with other economic regulators to benchmark our work and to engage effectively with the various initiatives emerging from the Better Regulation Executive’s programme. We discussed common issues through the Joint Regulators’ Group and meetings between the chairmen of the regulatory bodies. We have also coordinated other, less formal, information-sharing meetings. For example we worked with the other regulators to develop more effective ways of measuring our performance.

Health and Safety Commission/Executive

A series of liaison meetings were held throughout the year between ORR and HSE. In line with the arrangements drawn up under the MoU at the time of merger between ORR and HSE Rail, we held meetings at chairman and at chief executive level on matters of common interest.

Detailed work was undertaken during 2007-08 between ORR and HSE to clarify further the appropriate division of responsibility between HMRI inspectors and HSE inspectors in respect of railway operational premises. A review of the Health and Safety (Enforcing Authority for Railways and Other Guided Transport Systems) Regulations 2006 has been concluded successfully and a consultation document is scheduled for issue in spring 2008-09 aimed at resolving anomalies that have come to light following the transfer of responsibilities from HSE to ORR in 2006, and clarifying enforcement demarcation between HSE and ORR.



Parliamentary committees

We contributed to the inquiry by the House of Lords Select Committee on Regulators into UK economic regulators and, in January 2008, responded to the inquiry report. We welcomed the report and took the opportunity to set out some of the differences between ORR and other economic regulators and the usefulness of tailoring best practice to better meet our objectives. Also in January, we appeared before the Commons Transport Select Committee to answer questions both on the New Year engineering overruns and on the rail white paper. We appeared again on 5 March 2008.

In October, we submitted written evidence to the Transport Select Committee's inquiries on the rail white paper, freight and on the Public Private Partnership and London Underground.

Passenger and freight representatives

To regulate effectively we need to understand the passenger view of the railways, and our relationship with Passenger Focus and London Travelwatch is key to this. During the year we met regularly and commented on relevant findings from their research in our *National rail review*. We continued to explore possible industry solutions to passenger concerns highlighted by Passenger Focus, including reviewing existing passenger protections relating to the retail experience and evaluating how our broader powers under general consumer law could be used to protect passenger interests.

Over the reporting period, we continued to engage with the freight community, particularly through the Rail Freight Group. We made various decisions during the period that were of particular concern to freight service providers and required a high level of communication and consultation.

“ To regulate effectively we need to understand the passenger view of the railways ”

European affairs

During the year we put considerable effort into influencing the development and implementation of European Union rail policy in support of the vision of a more competitive and efficient rail industry. We did this both in our role as national safety authority and as the economic regulatory body. We have worked with the European Commission, the European Rail Agency (ERA) and other European regulatory bodies, with the DfT and with the railway industry in Great Britain and elsewhere in Europe.

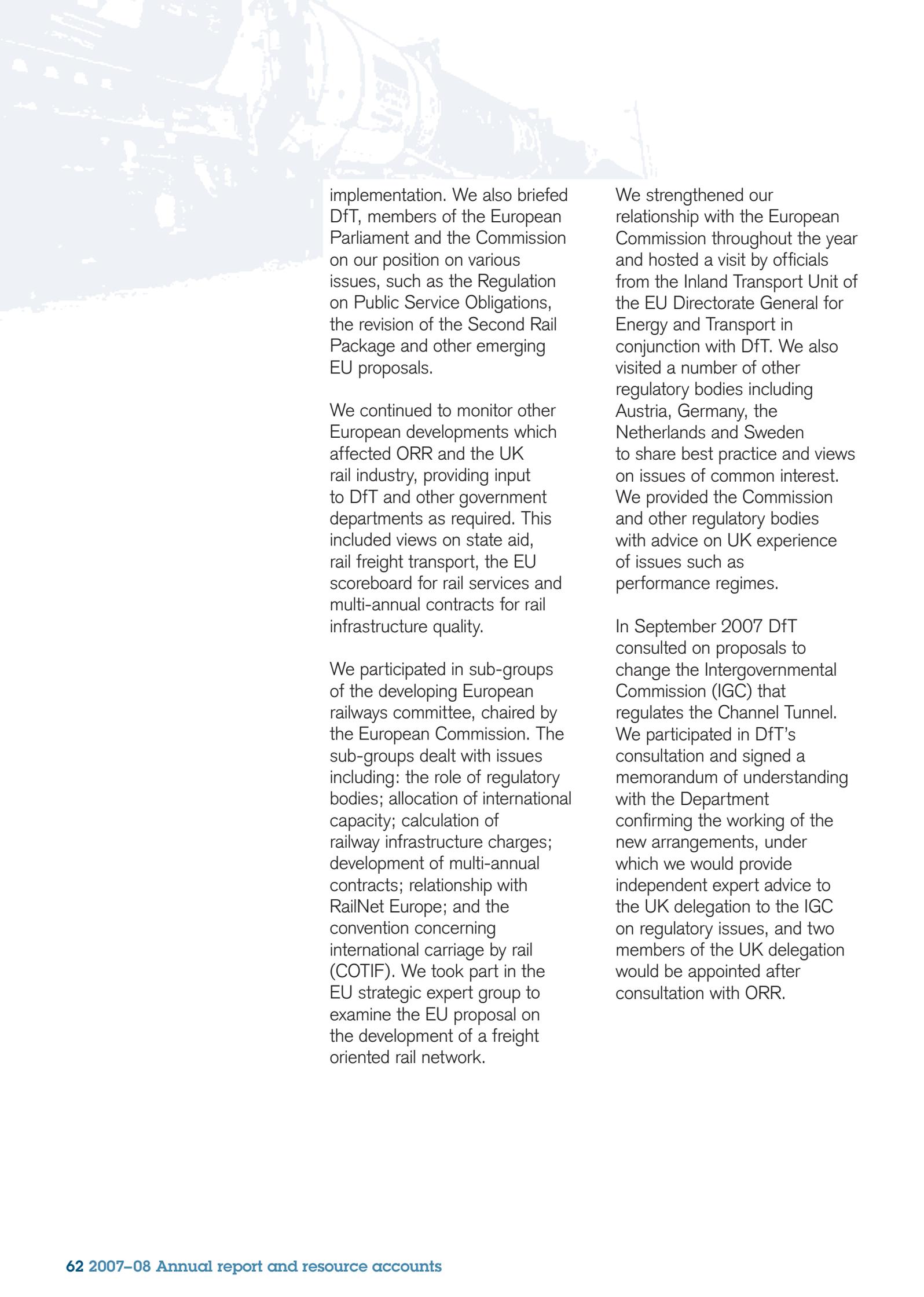
In our role as national safety authority, we played a full part in the work of ERA. We now have representatives on all of the agency's working groups developing harmonised safety processes in areas such as safety certification, common safety methods and targets. We are also represented at working groups revising technical specifications for interoperability. We are the first national safety authority in Europe to take part in a peer review of our safety certification processes, the aim being to exchange experience and increase understanding between the authorities.

We worked closely with DfT and the railway industry to develop coherent and influential UK viewpoints on proposals arising from ERA's work programme. This will help to develop cost-effective solutions that can achieve the aims of the agency's programme. In 2007, we liaised with DfT and RSSB

to produce a comprehensive list of national safety rules for the UK, which were notified to the European Commission in January. This exercise is designed to improve the level of transparency of legislation and other rules across Europe and encourage a more open rail market.

We run the secretariat for the international liaison group of government railway inspectorates, which provides a forum for safety authorities to discuss ERA's proposals and share information and experience on technical issues. The group met twice in 2007. We are now also a member of the core group running the annual international railway safety conference, which enables senior representatives of regulators, industry bodies and trade unions to discuss priority issues and exchange information on good practices.

As the economic regulatory body, we developed negotiating positions to assist DfT in progressing the third railway package with the European Commission and European Parliament, supporting the European objectives of further opening of the rail market for international passenger services, strengthening the rights of rail passengers, and making it easier for train drivers to move from one Member State to another. This package was adopted in December 2007 and is at the transposition/implementation stage with a deadline of 2009 for



implementation. We also briefed DfT, members of the European Parliament and the Commission on our position on various issues, such as the Regulation on Public Service Obligations, the revision of the Second Rail Package and other emerging EU proposals.

We continued to monitor other European developments which affected ORR and the UK rail industry, providing input to DfT and other government departments as required. This included views on state aid, rail freight transport, the EU scoreboard for rail services and multi-annual contracts for rail infrastructure quality.

We participated in sub-groups of the developing European railways committee, chaired by the European Commission. The sub-groups dealt with issues including: the role of regulatory bodies; allocation of international capacity; calculation of railway infrastructure charges; development of multi-annual contracts; relationship with RailNet Europe; and the convention concerning international carriage by rail (COTIF). We took part in the EU strategic expert group to examine the EU proposal on the development of a freight oriented rail network.

We strengthened our relationship with the European Commission throughout the year and hosted a visit by officials from the Inland Transport Unit of the EU Directorate General for Energy and Transport in conjunction with DfT. We also visited a number of other regulatory bodies including Austria, Germany, the Netherlands and Sweden to share best practice and views on issues of common interest. We provided the Commission and other regulatory bodies with advice on UK experience of issues such as performance regimes.

In September 2007 DfT consulted on proposals to change the Intergovernmental Commission (IGC) that regulates the Channel Tunnel. We participated in DfT's consultation and signed a memorandum of understanding with the Department confirming the working of the new arrangements, under which we would provide independent expert advice to the UK delegation to the IGC on regulatory issues, and two members of the UK delegation would be appointed after consultation with ORR.

International affairs

We hosted a number of visits from representatives of other countries interested in Great Britain's rail and regulatory experience. These included Australia, China, France, Germany, The Netherlands, Poland, Romania, and Nigeria. We also participated in a Railway Industry Association visit to Taiwan, which included a discussion of the lessons from UK rail industry privatisation.

International best practice visits

During the summer, we conducted eight international fact-finding visits to railways in Australia, Austria, Canada, Denmark, Germany, Switzerland, the Netherlands

and the USA. The aim of these visits was to ensure that our periodic review assessment of Network Rail's proposed expenditure for maintaining and renewing its infrastructure assets from 2009 was made with the widest possible knowledge of how other railways are operated and managed. This provided valuable information about areas of best international practice where Network Rail could apply lessons, or at least do further investigation of opportunities, to improve the efficiency and effectiveness of its own business processes.





6. ORR as an effective combined safety and economic regulator

ORR has always taken its organisational responsibilities extremely seriously - but this has been even more critical since the merger of safety and economic regulation on 1 April 2006.

We know that to be an effective regulator we rely entirely on our people – their commitment to their work, and to doing their jobs to the best of their ability. Making the most of this energy and expertise requires good management and investment in learning and development. In our second year as a new organisation, we continued to make great strides in these areas delivering a challenging integration programme against very tight timescales.

6. ORR as an effective combined safety and economic regulator

“ We remain committed to reducing the cost of regulation to the industry and once again we were able to meet our target of RPI-2 ceiling to our running costs ”

Corporate governance and ORR Board

ORR was established on 5 July 2004 under the Railways and Transport Safety Act 2003. We are an independent statutory body led by a Board consisting of six non-executive directors (including the chairman) and five executive directors. The Board held 12 meetings in 2007-08, and one Board away day. Minutes of Board meetings are published on our website.

The Board has three standing committees; audit, remuneration and safety regulation. It also has a periodic review committee that oversees the work programme leading to the PR08.

The Board, its meetings and committee meetings, are governed by the Board's rules of procedure. The Board and standing committees also review their performance annually to ensure that we continue to exercise efficient and robust decision-making.

The Board's rules of procedure include strict guidelines on conflicts of interest. A register of Board members' interests is published on our website and members declare interests on agenda items at the start of every Board and committee meeting. On the rare occasions where there is a clear conflict of interest the relevant member withdraws from the meeting during discussion of the relevant item and this is recorded in the minutes. The Secretary of State for Transport makes appointments to the Board for a fixed term of up to five years but the Secretary of State can only remove individual members for incapacity or misbehaviour under section 1(3) of the Railways Act 1993.



The Board

Non-executive directors



Chris Bolt
chairman



Peter Bucks
non-executive
director



Jane May
non-executive
director



Jim O'Sullivan
non-executive
director



Richard Goldson OBE
non-executive
director



Dr Chris Elliot
non-executive
director

Executive directors



Bill Emery
chief executive



Michael Beswick
executive director,
rail policy



Linda Williams
HM chief inspector
of railways



John Thomas
executive director,
competition and
regulatory economics



Michael Lee
executive director,
access, planning
and performance

Other executive directors



Juliet Lazarus
director, legal services



Lynda Rollason
director, corporate services

Board

Chris Bolt

chairman
5 July 2004 to 4 July 2009

Bill Emery

chief executive
19 September 2005 and reappointed
from 19 September 2008 to
18 September 2010

Peter Bucks

non-executive director
5 July 2004 and reappointed from
1 September 2007 to 31 March 2010

Michael Beswick

executive director, rail policy
20 March 2006 to 19 March 2011

Jane May

non-executive director
5 July 2004 to 4 July 2009

Linda Williams

HM chief inspector of railways
15 January 2007 to 14 January 2012

Jim O'Sullivan

non-executive director
1 April 2005 to 31 March 2010

John Thomas

executive director, competition
and regulatory economics
15 January 2007 to 14 January 2012

Richard Goldson OBE

non-executive director
2 October 2006 to 31 March 2010

Michael Lee

executive director, access,
planning and performance
15 January 2007 to 14 January 2012

Dr Chris Elliot

non-executive director
1 July 2007 to 31 March 2011

*Jeffrey Jowell QC served as
non-executive director until
30 June 2007.*

Other executive directors

Juliet Lazarus

director, legal services

Lynda Rollason

director, corporate services

*Sarah Straight served as
director, safety and economic
policy until 31 March 2008*

Board and committee member attendance records for 2007-08

✓ = in attendance.

A = apologies for absence
received. No mark indicates that
the member was either not in
post or not invited to attend.



Board meeting attendance 2007-08

Board member	17 April	22 May	19 June	17 July	18 Sept	16 Oct	20 Nov	19 Dec*	22 Jan	19 Feb	25 Feb**	18 Mar	Total / possible
Chris Bolt (chairman)	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	12 / 12
Michael Beswick (executive)	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	11 / 11
Peter Bucks (NED)	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	11 / 11
Bill Emery (chief executive)	✓	A	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	11 / 12
Chris Elliott (NED from 1 July 2007)				✓	✓	✓	✓		✓	✓	✓	✓	8 / 8
Richard Goldson (NED)	A	✓	✓	✓	✓	✓	✓		✓	✓	A	✓	9 / 11
Jeffrey Jowell (NED until 30 June)	✓	✓	✓										3 / 3
Michael Lee (executive)	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	12 / 12
Jane May (NED)	✓	✓	✓	A	✓	✓	✓		✓	✓	✓	✓	10 / 11
Jim O'Sullivan (NED)	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	11 / 11
John Thomas (executive)	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	11 / 11
Linda Williams (executive)	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	11 / 11

Notes on Board attendance

* 19 December 2007 – This meeting was called at very short notice with the three members attending making a quorum.

** 25 February 2008 – This meeting was agreed in mid-February. Mr Goldson had booked to be out of the country before the meeting was arranged.

There was full Board attendance at a Board corporate strategy development away day on 12-13 November 2007

Audit committee attendance 2007-08

Committee member	5 June	2 Nov	6 Dec	10 Mar	Total / possible
Peter Bucks (committee chairman & NED)	✓	✓	✓	✓	4 / 4
Jane May (NED)	✓	✓	✓	✓	4 / 4
Jeremy Chittleburgh (independent member)	✓	✓	✓	✓	4 / 4

Remuneration committee attendance 2007-08

Committee member	24 April	22 May	Total / possible
Jeffrey Jowell (committee chairman & NED)	✓	✓	2 / 2
Peter Bucks (NED)	✓	✓	2 / 2
Richard Goldson (NED)	✓	✓	2 / 2



**Periodic review committee attendance
2007-08**

Committee member	29 May	26 June	24 July	25 Sept	23 Oct	27 Nov	10 Dec	5 Feb	4 Mar	Total / possible
Bill Emery (committee chairman & chief executive)	A	✓	✓	A	✓	✓	✓	✓	✓	7 / 9
Chris Bolt (ORR chairman)	✓	✓	✓	✓	✓	A	✓	✓	✓	8 / 9
Michael Beswick (executive)	A	A	✓	✓	✓	✓	✓	✓	✓	7 / 9
Peter Bucks (NED)	✓	✓	✓	✓	✓	✓	✓	✓	✓	9 / 9
Richard Goldson (NED)	✓	✓	✓	✓	✓	✓	✓	✓	A	8 / 9
Juliet Lazarus (executive)	A	✓	✓	✓	✓	✓	✓	A	✓	7 / 9
Michael Lee (executive)	✓	✓	✓	✓	✓	✓	✓	✓	✓	9 / 9
Paul McMahon (executive)	✓	✓	✓	✓	✓	✓	✓	✓	✓	9 / 9
Sarah Straight (executive)	✓	✓	✓	✓	✓	✓	✓	✓	✓	9 / 9
John Thomas (executive)	✓	✓	✓	✓	A	A	✓	✓	✓	7 / 9

Safety regulation committee attendance 2007-08

Committee member	26 April	17 May	21 June	19 July	13 Sept	20 Nov	29 Jan	11 Mar	Total / possible
Jim O'Sullivan (committee chairman & NED)	✓	✓	✓	A	✓	✓	✓	✓	7 / 8
Chris Bolt (ORR chairman)	✓	✓	✓	✓	✓	✓	✓	✓	8 / 8
Michael Beswick (executive)	✓	✓	✓	✓	✓	✓	✓	✓	8 / 8
Bill Emery (chief executive)	✓	A	✓	✓	✓	A	✓	✓	6 / 8
Chris Elliott (NED appointed to SRC from September 2007)					✓	A	A	✓	2 / 4
Juliet Lazarus (executive)	✓	A	A	✓	A	A	✓	✓	4 / 8
Jane May (NED)	✓	✓	✓	A	A	✓	✓	✓	6 / 8
David Morris (executive)	✓	✓	✓	✓	✓	✓	✓	✓	8 / 8
Sarah Straight (executive)	✓	✓	✓	✓	A	A	✓	A	5 / 8
Linda Williams (executive)	✓	✓	✓	✓	✓	✓	✓	✓	8 / 8

Human Resources

Activities

This has been another busy year as we continue to bring together our people within the organisation. In particular, we;

- negotiated and implemented a new pay and grading system;
- furthered constructive working with unions and our staff representatives through the staff representative group, a new model for employee relations in the Civil Service;
- introduced a new performance management system, underpinned by a new competency framework;
- undertook an equality and diversity audit (we are currently implementing our action plan);
- continued to deliver our learning and development strategy, reflecting our commitment to ensuring our staff have the skills we need and helping them to realise their full potential;
- appointed an employee engagement manager who has implemented an internal communications strategy;
- participated in the Best Companies Survey of employees, achieving “one

to watch” status.

- introduced a new HR system that will streamline our HR processes and enable us to provide comprehensive management information about our workforce; and
- made substantial progress on bringing our people under a single set of employment terms and conditions.

People profile

We have a fully committed and competent workforce capable of delivering our business plan. The table below shows the profile of ORR employees* as at 31 March 2008.

Grade	Total	Male	Female	White	Ethnic minority	Disabled
SCS	14	10	4	14	0	0
Grade A	23	15	8	22	1	0
Grade B	29	23	6	29	0	1
Grade C/2C	106	87	19	100	6	5
Grade D	36	24	12	28	8	1
Grade E	35	18	17	28	7	0
Grade F	53	19	34	28	25	3
Grade G	49	27	22	32	17	3
TOTAL	345	223	122	281	64	13

Equal Opportunities

We are committed to a policy of equal opportunities. Recruitment is carried out on the basis of fair and open competition and selection on merit in accordance with the recruitment code laid down by the Civil Service Commissioners – and there have been no reportable exceptions. Our aim is to be

fair to everyone and to ensure that no eligible job applicant or employee receives less favourable treatment on the grounds of gender, ethnicity, disability, sexual orientation, age, religious belief, or any other irrelevant factor. Our equality and diversity policy is available to all employees via the staff handbook.



* excludes chairman and non executive directors

Recruitment

Recruitment activity during the year has been significant, with 53 schemes (both internal and external) successfully completed by 31 March 2008.

The table below shows the number of appointments* made through external recruitment during the year.

Grade	Total	Male	Female	White	Ethnic minority	Disabled
SCS	0	0	0	0	0	0
Grade A	0	0	0	0	0	0
Grade B	1	0	1	1	0	0
Grade C/2C	7	4	3	6	1	0
Grade D	4	2	2	3	1	1
Grade E	5	3	2	5	0	0
Grade F	7	2	5	3	4	0
Grade G	9	6	3	8	1	0
TOTAL	33	17	16	26	7	1

* excludes chairman
and non executive directors

Business planning and finance

ORR is a non-ministerial government department almost entirely funded through a licence fee and railway safety levy charged to railway service providers. The totals of expenditure and income have to be planned through the Treasury and accounted for to Parliament. The chief executive, Bill Emery is the Accounting Officer for these funds. The table below sets out our resource requirements and our annual resource accounts can be found at chapter 7.

The resource accounts for the financial year 2007-08 have been prepared on an accruals basis, which means that expenditure and income have been accounted for in the periods in which they occurred, irrespective of when any cash was received or paid.

ORR is funded almost entirely by the rail industry – the train operating companies, and Network Rail. We work within a defined budget, and invoice for the safety levy and licence fee to meet our costs. If we receive income which is in excess of what we have spent in the year, we carry this forward to a future year. The effect of this is that future charges for safety and licence fees can be reduced.

In 2007-08 we spent £30.5m. We levied £27.54m for safety, licence fees and miscellaneous services, and made use of £3.34m income deferred from the previous year. This left a balance of £0.38m to carry forward as deferred income to next year.

Most of our costs were salaries – 65% in 2007-08, which is the same percentage as the previous year. A further 9% was spent on consultancy fees, including the purchase of legal services. (In 2006-07 we spent 7% of our total budget on these.) The remainder of our expenditure (26%) was on other non-pay related costs, including non-cash costs, such as depreciation of our fixed assets and making provision for future years' expenditure.

In summary, our expenditure and income is shown below, together with the expenditure analysed by our objectives. Last year's expenditure is also shown for reference.



	2007-08	2006-07
	£000	£000
Income		
Deferred income from prior year	3,335	3,581
Licence fees, safety levy and miscellaneous income received	27,537	28,933
Total income	30,872	32,514
Expenditure		
Staff costs	19,833	19,127
Other Costs	10,664	10,054
Less		
Income deferred to future year	377	3,335
Net Operating Deficit (As voted by Parliament)	2	2

Reconciliation between resource outturn and resource budget outturn

Net Resource Outturn	2	2
Net Operating Costs	2	2
Resource Budget Outturn	2	2

Expenditure against departmental aims and objectives

	Budget	Actual	Variance
	£000	£000	£000
Improving health and safety performance	11,950	12,076	126
Securing improved efficiency and performance	3,082	2,949	(133)
Securing robust plans for 2009 and beyond	2,358	2,412	54
Improving and aligning relationships and incentives in the industry	2,303	2,293	(10)
ORR as an effective combined safety an economic regulator	11,143	10,767	(376)
Total expenditure	30,836	30,497	(339)

Capital expenditure

Expenditure on the purchase of fixed assets totalled £0.6m.

The balance sheet, which can be found in the Resource Accounts - chapter 7 - shows a negative Taxpayers Equity of £0.9m. This merely reflects the inclusion in the balance sheet of liabilities which fall due in future years, including the repayment of excess cash to the Treasury (£3.8m), which we are obliged by law to repay. We therefore finance our future liabilities from future income and from grants of supply approved by Parliament. Parliament has already approved this for 2008-09, so we are able to adopt a going concern basis for the preparation of our accounts.

We are self-financing. Funding is raised through licence fee income and a safety levy received during the year from the network infrastructure provider and railway service providers, and as such we normally have no need for cash funding. However, due to timing differences between the receipt of licence fee and safety levy income and when we need to make expenditure, we borrow, short-term, from the Treasury's Contingencies Fund, and repay the amount in full within the year. None of these monies are invested, so we are not exposed to financial instruments, interest rate or liquidity risks, and this method of financing has no significant impact on the organisation's risk profile.

Monitoring and reporting against business plan activities

Our Directors' Group continued to receive monthly reports on the office's progress on delivering business plan activities. Monthly progress reports were also presented to the Board.

Performance indicators

Underpinning our approach has been our commitment to reduce organisational costs by 2% in real terms year on year. We have continued to meet this target while monitoring progress against our economy and efficiency performance indicators.

Our economy measures (which primarily assess staff costs, support costs and accommodation costs) are summarised in the table below and include comparative data for the years 2006-07 to 2008-09.



Economy measures

(2008 Prices)	ORR			Variance	
	2006-07 Actual	2007-08 Actual	2008-09 Budget	2006-07 to 2007-08	2007-08 to 2008-09
Total Expenditure £m	30.4	30.5	31.2	0.3%	2.4%
Staff numbers	328	345	350	5.0%	1.6%
Accommodation costs/person (£000s)	8.1	7.3	7.1	-8.9%	-2.9%
Accommodation costs/total costs (%)	8.7	8.3	8.0	-4.6%	-3.6%
Support costs/total costs (%)	19.6	18.9	19.9	-3.7%	5.3%
Support staff/total staff (%)	16.2	15.9	16.7	-1.6%	5.3%
Consultancy cost/total costs (%)	7.5	8.6	7.3	14.5%	-14.8%
Average Staff cost/head (£000s)	61	57	59	-5.3%	2.4%
Staff turnover (%)	9.9	6.3	-	-36.2%	-
Sickness absence (%)	3.9	3.5	-	-10.4%	-

We have further refined our efficiency measures (which primarily assess delivery against timescales, volumes, and quality outputs) for a wide range of our activities. Examples are provided in the table below:

Efficiency measures

Performance Indicator	2006-07	2007-08
ROGS certificate/authorisation; 100% of applications determined by due date	n/a	34 met (100%)
Complaints under Network Rail network licence; (a) initial response within 10 working days and (b) substantive resolution within two calendar months.	(a) 17 met (b) 17 met	(a) 36 met (b) 34 met*
Land disposal cases; determined 100% of cases within 3 months of submission by Network Rail	9 (100%)	15 (100%)
Licence applications and licence exemption applications; decisions made within 3 months of all relevant information	25 (100%)	29 (100%)
Periodic Review Programme; 100% delivery of published timetable for programme of work.	8 targets 7 met	4 targets 4 met
Track access agreements (s17, 18 and 22); determined within 12-18 weeks depending on complexity	124 cases 88 cases met	102 cases 96 cases met**
Provision of advice; on number of competition impact franchise acquisitions or other mergers provided within 30 days of receipt of notification	2 (100%)	7 (100%)
(a) Parliamentary questions; respond within 24 hours of receipt (b) freedom of information and (c) enquiries; 90% responded to within 21 working days	(a) 33 met (b) 197 met (97%) (c) 1735 met (98%)	(a) 51 met (b) 176 met (85%)*** (c) 1867 met (95%)

* not met due to complexity of complaint (e.g Network Rail New Year overrun)

** 6 cases not met due to complexity of franchise remapping

*** Target missed due to complexity of requests

We are also continuing to work with other regulators to compare data and share best practice in monitoring performance. We are seeking to further develop our performance measures as we create our new corporate strategy.

Project management

We carried out a review of our project management approach, which was introduced last year. Overall, the review confirmed that our arrangements were working effectively although some minor revision was needed. We will further enhance the guidance and continue to keep the initiative under review.

Risk management

We managed risk through a three-tier approach of strategic, operational and directorate risk registers. The formal risk reporting structures supported monthly risk reviews at Directors Group, quarterly reviews at the Audit Committee and six-monthly reviews at the Board. We held a risk workshop with our senior team in January 2008 to refresh and update our strategic risks.



Audit committee

The Audit committee is chaired by Peter Bucks a non-executive director and comprises Jane May, also a non-executive director, and Jeremy Chittleburgh, an independent member. Meetings are held at least four times a year and are always attended by; ORR's chief executive as the accounting officer, the director of corporate services, the deputy director corporate services, the head of finance and representatives from the National Audit Office and ORR's internal audit provider. Other ORR managers attend at the request of the committee.

The committee's role is to advise the accounting officer and the Board on the adequacy of internal controls, corporate governance, risk management and audit arrangements. The committee assesses its effectiveness in the light of this role every year.

Auditors

Our accounts are audited by the Comptroller and Auditor General. The audit opinion and report of the Comptroller and Auditor General is included with the Statement of Accounts in chapter 7. The notional cost of providing external audit services was £37,000 (2006-07: £35,000). There was no auditor remuneration (actual or notional) for non-audit work.

The Audit and Risk Assurance unit of the Department for Transport (DfT) provided an internal audit service to ORR for 2007-08. During the year we tested the market for the provision of this service publishing a tender in October 2007. DfT decided not to bid and, following a robust tender process, on 29 January 2008 the Board confirmed the appointment of RSM Bentley Jennison as ORR's internal audit provider from 1 April 2008. During February and March 2008 RSM Bentley Jennison worked closely with the corporate governance team and DfT to ensure a smooth and efficient transition. This cost of internal audit was for 2007-08 was £53,200.



Resource management

During the year our directors' group reviewed the management accounts each month, receiving information on key areas of spend, budgets and forecasts. A summary of the management accounts was presented each month to the Board. Meetings were also held between budget holders and the finance team on a regular basis where the results were discussed at a more detailed level.

Prompt payment initiative

We are committed to the prompt payment of our suppliers and seek to pay all valid invoices within 30 days of receipt. During 2007-08, 96.91% of invoices were paid within target timescales.

Facilities management

Our facilities team manage and supply a multi-site operation with offices across Great Britain. We have established good relationships with our landlords, the Civil Aviation Authority in London and the Health and Safety Executive for the regional offices.

Environmental policy

In response to a staff suggestion, we set up an environmental advisory group which looks for further opportunities for us to develop ORR's corporate sustainability and reduce our environmental impact. To that end we commissioned an environmental audit which will establish a baseline against which we can benchmark our future performance.

Health and safety

We have organisational arrangements in place to ensure compliance with the health, safety and environmental policy at different levels with ORR. The health and safety policy statement describes our responsibilities and objectives and is available to all employees.

Information systems

The Information Systems (IS) team successfully completed the technical integration of HMRI into ORR with the implementation of a new wide area communications network and the deployment of new personal computer equipment and updated software. Completed in May 2007, this programme of work has consolidated most of ORR's electronic data onto a single computer network greatly enhancing our ability to develop as an integrated safety and economic regulator.

Systems resilience and data security remain high priority issues and the IS team has undertaken work to update and enhance business continuity and IS disaster recover capabilities. In addition, ORR has rigorously tested its network and systems for points of vulnerability and is currently working on implementing recent recommendations from Cabinet Office on the protection of sensitive data.

Forward look

2008-09 will cover the third and final year of our 2006-09 corporate strategy¹⁵. We will continue to build on the progress we have already made to deliver our strategy as the health and safety and economic regulator of Britain's railways. During 2008-09, we will also develop our longer-term corporate strategy for 2009-14.

Key areas for 2008-09 will include;

- *Securing robust plans for 2009 and beyond* – we will conclude the periodic review of Network Rail's outputs, revenue requirements and access charges for 2009-14.
- *Securing improved efficiency and performance in the current control period* – we will continue to monitor Network Rail's performance against the targets set out in our access charges review 2003 and the requirements of its licences. We will also publish the results of our monitoring, highlighting successes and failures, and taking appropriate regulatory action.
- *Improving health and safety performance* – we will continue to discharge our responsibilities to monitor, and where necessary enforce, to ensure compliance with health and safety law across the industry.



15. <http://www.rail-reg.gov.uk/upload/pdf/280.pdf>.

- *Improving and aligning relationships and incentives in the industry* – we will pursue this objective through the work on the alignment of incentives, industry planning and definition of Network Rail outputs as part of PR08.
- *Developing ORR as an efficient and effective combined safety and economic regulator* - we will improve the ways in which we use information and intelligence taking a more integrated approach. We will also implement our new performance management system, further improve our internal communications and develop more efficient and effective human resources processes and systems





7. Resource Accounts

These accounts cover the operation of the Office of Rail Regulation (ORR) for the period 1 April 2007 to 31 March 2008. They have been prepared on an accrual basis in accordance with the Government Resources and Accounts Act 2000 and HM Treasury's Financial Reporting Manual.



7. Resource Accounts

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Introduction

ORR was established by the Railways and Transport and Safety Act 2003 to replace the Office of the Rail Regulator. It is a non-ministerial department, funded through licence fees and safety levies, the value of which are set by ORR. Our functions were broadened by the Railways Act 2005, which established us as the combined safety and economic regulator for the railway industry.

We are independent of, but work closely with, the Department for Transport (including the Rail Accident Investigation Branch), the Health and Safety Executive and the Rail Safety and Standards Board.

These accounts cover the operation of the Office of Rail Regulation (ORR) for the period 1 April 2007 to 31 March 2008. They have been prepared on an accrual basis in accordance with the Government Resources and Accounts Act 2000 and HM Treasury's Financial Reporting Manual.

In so far as the accounting officer is aware, there is no relevant audit information of which our auditors are unaware. The accounting officer has taken all the steps that he ought to have taken to make himself aware of any relevant audit information and to establish that our auditors are aware of that information.

Remuneration Report

Remuneration committee

The remuneration committee's role relates to the pay and performance of ORR senior civil service staff. It consists of non-executive members of the Board. It met twice during the year 2007-08 and was chaired by Jeffrey Jowell. The other members were Peter Bucks and Richard Goldson.

The committee's role is to review the remuneration packages of ORR's senior civil servants; to keep under review the criteria for allocating individuals to performance tranches and awarding bonuses; to make recommendations to the Board on pay decisions for senior civil servants; to recommend to the Board broad pay policy in relation to all aspects of executive remuneration and to monitor the operation of the pay system. Our civil servant pay strategy accords with parameters set by the Cabinet Office for the Senior Civil Service following recommendations by the Senior Salaries Review Body. Further information about the work of the Review Body can be found at www.ome.uk.com.

Service Contracts

Civil service appointments are made in accordance with the Civil Service Commissioners' Recruitment Code, which requires appointment to be on merit on the basis of fair and open competition, but also includes the circumstances when appointments may otherwise be made.

Unless otherwise stated below, the officials covered by this report hold appointments which are open-ended. Early termination, other than for misconduct, would result in the individual receiving compensation as set out in the Civil Service Compensation Scheme.

Further information about the work of the Civil Service Commissioners can be found at www.civilservicecommissioners.gov.uk.

Remuneration of senior civil servants is set out in their contracts and is subject to annual review in line with awards recommended by the Senior Salaries Review Body. The notice period for all senior members of ORR does not exceed six months.

The arrangements for early termination of contracts of senior civil servants are made in accordance with the service contract of the relevant individual. Each contract provides for a payment in lieu of notice on early termination based on the provisions of the Civil Service Compensation Scheme. There were no such payments in 2007-08 (2006-07: one executive received early termination payments of £298,402).

Each senior civil servant participated in a bonus scheme which is in line with the Senior Salaries Review Body recommendations. The bonus is based on the individual's performance. Bonus payments are non-consolidated and non-pensionable.

The remuneration of the chairman and non-executive directors is set by the Secretary of State for Transport. Remuneration of non-executive Board members is by payment of salaries and they have no entitlement to performance related pay or pension benefits, with the exception of the chairman who is entitled to pension benefits. Compensation in the event of early termination is at the discretion of the Secretary of State.

Salary and Pension entitlements

The following sections provide details of the remuneration and pension interests of the most senior managers of the ORR during 2007-08, and has been subject to external audit.

Remuneration

		2007-08		2006-07
	Salary	Benefits	Salary	Benefits
	£000	in kind	£000	in kind
		(to nearest		(to nearest
		£100)		£100)
Bill Emery *	165-170	100	155-160	600
<i>chief executive</i>				
John Thomas *	110-115	600	100-105	600
<i>director, competition and regulatory economics</i>				
Juliet Lazarus	100-105	–	95-100	–
<i>director, legal services</i>				
Linda Williams**	105-110	2,600	105-110	6,600
<i>director, railway inspectorate</i>				
Michael Beswick	115-120	–	110-115	–
<i>director, safety and economic policy development</i>				
Michael Lee**	105-110	–	100-105	700
<i>director, access, planning and performance</i>				
Sarah Straight	95-100	–	90-95	–
<i>director, safety and economic policy development</i>				
Lynda Rollason	105-110	–	100-105	–
<i>director, corporate services</i>				

Notes * Benefits in kind comprise subsidised gym membership

** Benefits in kind comprise travel benefits

'Salary' includes gross salary; performance pay or bonuses; overtime; reserved rights to London weighting or London allowances; recruitment and retention allowances; private office allowances and any other allowance to the extent that it is subject to UK taxation.

'Pension entitlement/allowances' relates to an allowance paid to senior staff who have chosen to take extra salary to invest in a pension scheme of their own choice rather than participate in a Civil Service pension. No senior managers exercised this option. Pension benefits are shown on page 93.

Pension Benefits

	Accrued pension at age 60 as at 31/3/08 and related lump sum £000	Real increase in pension and related lump sum at age 60 £000	CETV at 31/3/08 £000	CETV at 31/3/07 £000	Real increase (decrease) in CETV £000
Bill Emery (a) <i>chief executive</i>	45-50 (pension) 140-145 (lump sum)	0-2.5 (pension) 5.0-7.5 (lump sum)	1,102	932	27
John Thomas (b/c) <i>director, competition and regulatory economics</i>	10-15 (pension)	0-2.5 (pension)	132	90	21
Juliet Lazarus (c) <i>director, legal services</i>	5-10 (pension)	0-2.5 (pension)	74	46	17
Linda Williams (a) <i>director, railway inspectorate</i>	40-45 (pension) 120-125 (lump sum)	2.5-5.0 (pension) 7.5-10.0 (lump sum)	1,019	895	66
Michael Beswick (d) <i>director, safety and economic policy development</i>	45-50 (pension) 40-45 (lump sum)	2.5-5.0 (pension) 2.5-5.0 (lump sum)	998	992	6
Michael Lee (d) <i>director, access, planning and performance</i>	50-55 (pension) 40-45 (lump sum)	2.5-5.0 (pension) 2.5-5.0 (lump sum)	805	841	(36)
Sarah Straight (a) <i>director, safety and economic policy development</i>	35-40 (pension) 115-120 (lump sum)	0-2.5 (pension) 2.5-5.0 (lump sum)	779	661	20
Lynda Rollason (a) <i>director, corporate services</i>	5-10 (pension) 25-30 (lump sum)	0-2.5 (pension) 2.5-5.0 (lump sum)	179	134	22

Notes (a) opted to join Classic, (b) opted to join Classic plus, (c) Premium,
(d) member of the Railway Pension Scheme from date of appointment

Due to certain factors being incorrect in last year's CETV calculator there may be a slight difference between the final period CETV for 2006-07 and the start of period CETV for 2007-08.

Non-executive Directors

Other Non-executive Directors received the following salaries:	2007-08 £	2006-07 £
Chris Bolt	107,583	104,256
Peter Bucks	20,931	20,283
Jeffery Jowell QC (to 30 June 2007) ¹	5,233	20,283
Jane May	20,931	20,283
Jim O'Sullivan	20,931	20,283
Dr Chris Elliott (from 1 July 2007) ¹	15,698	-
Richard Goldson OBE	20,931	10,129

Chris Bolt's accrued pension at 60 as at 31 March 2008 is in the range £5.0-7.5k with a real increase of £0-2.5k. The CETV at 31 March 2008 is £92k (31 March 2007: £65k), with a real increase of £22k. In addition to the amounts shown above, Non-executive Directors are also entitled to receive reimbursement of expenses incurred in relation to their duties.

Civil Service Pensions

Pension benefits are provided through the Civil Service pension arrangements. From 30 July 2007, civil servants may be in one of four defined benefit schemes; either a 'final salary' scheme (**classic**, **premium** or **classic plus**); or a 'whole career' scheme (**nuvos**). These statutory arrangements are unfunded with the cost of benefits met by monies voted by Parliament each year. Pensions payable under **classic**, **premium**, **classic plus** and **nuvos** are increased annually in line with changes in the Retail Prices Index (RPI). Members joining from October 2002 may opt for either the appropriate defined benefit arrangement or a good quality 'money purchase' stakeholder pension with a significant employer contribution (**partnership** pension account).

Employee contributions are set at the rate of 1.5% of pensionable earnings for **classic** and 3.5% for **premium**, **classic plus** and **nuvos**. Benefits in **classic** accrue at the rate of 1/80th of pensionable salary for each year of service. In addition, a lump sum equivalent to three years' pension is payable on retirement. For **premium**, benefits accrue at the rate of 1/60th of final pensionable earnings for each year of service. Unlike **classic**, there is no automatic lump sum. **Classic plus** is essentially a hybrid with benefits in respect of service before 1 October 2002 calculated broadly as per **classic** and benefits for service from October 2002 calculated as in **premium**. In **nuvos** a member builds up a pension based on his or her pensionable earnings during their period of scheme membership. At the end of the scheme

¹ The full year equivalent is £20,931

year (31 March) the member's earned pension account is credited with 2.3% of their pensionable earnings in that scheme year and the accrued pension is updated in line with RPI. In all cases members may opt to give up (commute) pension for lump sum up to the limits set by the Finance Act 2004.

The **partnership** pension account is a stakeholder pension arrangement. The employer makes a basic contribution of between 3% and 12.5% (depending on the age of the member) into a stakeholder pension product chosen by the employee from a panel of three providers. The employee does not have to contribute but where they do make contributions, the employer will match these up to a limit of 3% of pensionable salary (in addition to the employer's basic contribution). Employers also contribute a further 0.8% of pensionable salary to cover the cost of centrally-provided risk benefit cover (death in service and ill health retirement).

The accrued pension quoted is the pension the member is entitled to receive when they reach pension age, or immediately on ceasing to be an active member of the scheme if they are already at or over pension age. Pension age is 60 for members of **classic**, **premium** and **classic plus** and 65 for members of **nuvos**.

Further details about the Civil Service pension arrangements can be found at the website at www.civilservice-pensions.gov.uk

Some employees, including the director, safety and economic policy development and the director, access, planning and performance, are covered by the provisions of the Railway Pension Scheme (RPS), which is contributory and funded. The scheme is a defined benefit scheme with obligations met by the RPS trustees. Details of the RPS scheme statements and other financial information can be found in the Annual Report and Accounts of Railway Pensions Management Limited at www.railwaypensions.co.uk.

The former Rail Regulators' and Chairman's pensions are by analogy with the Principal Civil Service Pension Scheme. During 2007-08 this scheme had one member in employment (2006-07: one member). The accruing cost of providing for the member's future benefits, which is based on actuarial advice, is charged to the Operating Cost Statement. A provision for the expected future liabilities for the Rail Regulators' and Chairman's Pension Scheme is disclosed as a liability on the Balance Sheet.

Cash Equivalent Transfer Values

A cash equivalent transfer value (CETV) is the actuarially assessed capitalised value of the pension scheme benefits accrued by a member at a particular point in time. The benefits valued are the member's accrued benefits and any contingent spouse's pension payable from

the scheme. A CETV is a payment made by a pension scheme or arrangement to secure pension benefits in another pension scheme or arrangement when the member leaves a scheme and chooses to transfer the benefits accrued in their former scheme. The pension figures shown relate to the benefits that the individual has accrued as a consequence of their total membership of the pension scheme, not just their service in a senior capacity to which disclosure applies. The figures include the value of any pension benefit in another scheme or arrangement which the individual has transferred to the Civil Service pension arrangements. They also include any additional pension benefit accrued to the member as a result of their purchasing additional pension benefits at their own cost. CETVs are calculated within the guidelines and framework prescribed by the Institute and Faculty of Actuaries.

Real increase in CETV

This reflects the increase in CETV effectively funded by the employer. It does not include the increase in accrued pension due to inflation, contributions paid by the employee (including the value of any benefits transferred from another pension scheme or arrangement) and uses common market valuation factors for the start and end of the period.



Bill Emery
accounting officer
17 June 2008

Statement of Accounting Officer's Responsibilities

Under the Government Resource and Accounts Act 2000, ORR is required to prepare resource accounts for each financial year, in conformity with a Treasury direction, detailing the resources required, held, or disposed of during the year and the use of resources by ORR during the year.

The resource accounts are prepared on an accruals basis and must give a true and fair view of the state of affairs of ORR and of the net resource outturn, resources applied to objectives, recognised gains and losses and cash flows for the financial year.

The Treasury has appointed the chief executive as ORR's accounting officer with responsibility for preparing ORR's accounts and for transmitting them to the Comptroller and Auditor General.

In preparing these resource accounts, the Accounting Officer is required to comply with the Government Financial Reporting Manual prepared by the Treasury and, in particular, to:

- observe all relevant accounting and disclosure requirements, and apply suitable accounting policies on a consistent basis
- make judgements and estimates on a reasonable basis
- state whether applicable accounting standards, as set out in the Government Financial Reporting Manual, have been followed, and disclose and explain any material departures in the accounts, and
- prepare the financial statement on a going concern basis.

The relevant responsibilities of the accounting officer (including his responsibility for the propriety and regularity of public finances for which an accounting officer is answerable, for the keeping of proper records and for safeguarding ORR's assets) are set out in 'Managing Public Money' published by the Treasury.

Statement on Internal Control

Scope of responsibility

As accounting officer for the Office of Rail Regulation (ORR), I have responsibility for maintaining a sound system of internal control that supports:

- the obligations laid down in, or arising from, the Railways Act 1993 as amended by the Transport Act 2000, the Railways and Transport Safety Act 2003 and the Railways Act 2005;
- the concurrent powers held with the Office of Fair Trading to investigate competition cases under the Competition Act 1998, as amended, and under the Enterprise Act 2002;
- the achievement of ORR's departmental policies, aims and objectives; whilst,
- safeguarding ORR's public funds and departmental assets for which I am personally responsible in accordance with the responsibilities assigned to me in 'Managing Public Money'.

The purpose of the system of internal control

The system of internal control is designed to manage risk to a reasonable level rather than to eliminate all risk of failure to achieve policies, aims and objectives; it can therefore only provide reasonable and not absolute assurance of effectiveness.

The system of internal control is an ongoing process designed to identify and prioritise the risks to the achievement of departmental policies, aims and objectives, to evaluate the likelihood of those risks being realised and the impact should they be realised, and to manage them efficiently, effectively and economically. The system of internal control has been in place in ORR for the year ended 31 March 2008 and up to the date of the approval of the annual report and accounts, and accords with Treasury guidance.

Capacity to handle risk

The business planning and corporate governance team in the Corporate Services directorate has lead responsibility for managing and driving forward the risk management process and for ensuring that risk management is effectively implemented and embedded in ORR's management and business planning processes. The team has put forward formal papers to the ORR Board and the Audit Committee and has facilitated discussions on risk at directorate level.

The ORR Board reviewed risk in November 2007. The Audit Committee continued to scrutinise the risk management framework and took formal papers on risk management at each of its quarterly meetings (June, October and December 2007, and March 2008).

The assessment of risks and the identification of appropriate controls forms a key part of the business planning process. Each directorate is

required to consider these aspects and include them in the working level planning documentation.

The risk and control framework

ORR's risk management strategy sets out the key features of the risk management framework and provides guidance for staff on their role in the process. The Risk Management Strategy was kept under review during the reporting year and further refined to ensure that it remained consistent with the developing policies and procedures.

ORR has a three-tier risk management structure comprising:

- a strategic risk register;
- an operational level risk register; and
- directorate risk registers.

All the risk registers are available to staff on ORR's intranet.

The strategic risk register is a concise statement of the key strategic risks facing ORR. It identifies risk owners and control actions along with progress and next steps on these. A changes log records revisions and updates to the register, allowing risk owners to identify and respond to developments easily and in timely fashion. The strategic risk register is reviewed every month at the Directors' Group meeting and any significant changes to the risk profile are brought to the attention of the Board at its next meeting through the office report. In addition to this monthly review process, the strategic risk register is formally submitted to Board for consideration twice a year.

The key strategic risks include the occurrence of a major rail incident and shortcomings in ORR's response, as well as more general deterioration in the industry's safety standards and performance. Failure to deliver the Periodic Review 2008 is also covered.

Control actions completed and closed out during the year included monitoring and influencing the European challenge on the interpretation of the "so far as is reasonably practicable" principle (the ruling was favourable to the UK position) and implementing a new organisational structure designed to streamline decision-making and support a more integrated approach to safety and economic regulation.

The operational level risk register remains the principal organisational risk management tool. It marshals the risks facing ORR into four categories:

- External policy risks
- Industry risks
- Organisational risks
- Delivery risks

It is reviewed and updated once a month at the Directors' Group meeting alongside the strategic risk register.

There are now more than 30 operational level risks covered in the operational level risk register. These include: divergent EU legislation or rulings, industry safety and performance failure, failings in terms of human and other resource planning, business continuity failure and deficiencies in information received from industry parties. New risks were added in the year, including:

- a potential mismatch between the accommodation portfolio available and ORR's forward requirements;
- the potential for employee fraud;
- concerns, arising from the proposal for ORR to take on responsibility for the Intergovernmental Commission (the economic regulatory body for the Channel Tunnel); and
- possible failure of information security.

Control actions completed and closed out during the year included work on Part K of the network code (covering information flows between Network Rail and train operators) and a work programme on integrated regulation looking at how to secure best advantage (in terms of a more effective and safer railway) from the merger of the former health and safety and economic regulatory bodies.

As with the strategic risk register, a changes log allows developments to be readily tracked.

The directorate risk registers provide the principal focus for risk management at working level. Each directorate is required to maintain a directorate risk register and to review this regularly as part of its routine management processes. To keep the paperwork to a manageable level, the directorate risk registers themselves are not formally submitted to Directors' Group, but they do inform the review of the operational level risk register and the strategic risk register at the meeting once a month (see above). In addition, the directorate risk registers are submitted periodically to the Audit Committee and the relevant director or deputy director is required to attend the meeting to account for the effectiveness of the directorate review processes.

In all the registers, risk is assessed at baseline, target, and current levels, with the baseline being the assessment of the level of risk at the beginning of the financial year rather than before the implementation of any controls. This makes for a more dynamic review process with the current level becoming the new baseline at the beginning of each financial year. A date for the attainment of the target risk level is stated where this is appropriate.

In addition to the regular monitoring, a workshop for directors and deputy directors on risk was held on 14 January 2008. The aim of the workshop was to carry out a zero-based review of ORR's strategic and operational level risks (without reference to the existing documentation and using a different approach to that used for the programmed monitoring). The workshop was facilitated by a senior risk professional from an independent firm of auditors. There was a very high level of consistency between the risk profile emerging from the workshop and the existing risk registers. However variance analysis identified a small number of gaps and these were addressed in subsequent versions of the registers.

Information assurance

As mentioned above, the risk of failure of information security is now explicitly addressed in ORR's operational level risk register. In December 2007 a data security review was held, the objective being to identify what sensitive information was being held, to assess the degree of sensitivity and to establish how it was being managed. In the light of the results of the review the department is developing an information risk policy, listing key information assets and assigning information asset owners to each one and improving record keeping requirements governing the actions of all staff and contractors given access to protected data.

Review of effectiveness

As accounting officer, I have responsibility for reviewing the effectiveness of the system of internal control. My review of the effectiveness of the system of internal control is informed by the work of the internal auditors and the executive managers within the department who have responsibility for the development and maintenance of the internal control framework, and comments made by the external auditors in their management letter and other reports. I have been advised on the implications of the result of my review of the effectiveness of the system of internal control by the Board and the Audit Committee, and a plan to address weaknesses and ensure continuous improvement of the system is in place. Executive Directors have provided a statement of assurance for their areas of responsibility at the end of the 2007-08 financial year.

Some of the key features of the system are as follows:

- monthly Board and weekly directors' meetings to review strategic plans and to manage policy, resource and operational requirements;
- regular Audit Committee meetings, which include an independent member as well as internal and external auditors. These meetings provided informed advice on the adequacy of internal controls, corporate governance, risk management and audit arrangements;

- independent internal audit, provided by the Audit and Risk Assurance Division of the Department for Transport, which operates to criteria defined in Government Internal Audit Standards and reports to, and agrees forward plans with the audit committee;
- a team within the corporate services directorate dedicated to the development and implementation of corporate governance within the Office of the Rail Regulation;
- a Budget Manager Training Manual, Procurement Manual and a Financial Procedures Manual;
- comprehensive budgeting systems with an annual budget which is reviewed and agreed by the Board, and with regular monthly and annual accounts with actual performance compared to budget;
- a scheduled monthly session at Directors' Group to monitor and review a range of financial matters, including performance against forecast budget and any procurement issues;
- consultations with industry stakeholders on the contents of the corporate strategy and draft budget and licence fees/safety levy; and
- individual performance agreements for each staff member which align with the ORR's Business Plan objectives through each directorate and ensure that its affairs are conducted with efficiency, economy and effectiveness.

The detailed internal control arrangements within ORR are kept under review by its Audit Committee and Board, as appropriate.

Furthermore, at least annually, the Audit and Risk Assurance Division of the Department for Transport provides me with a report on internal audit activity for ORR. This independent report has given substantial assurance on the adequacy and effectiveness of ORR's system of internal controls.



Bill Emery
accounting officer
17 June 2008

The Certificate and Report of the Comptroller and Auditor General to the House of Commons

I certify that I have audited the financial statements of the Office of Rail Regulation for the year ended 31 March 2008 under the Government Resources and Accounts Act 2000. These comprise the Statement of Parliamentary Supply, the Operating Cost Statement and Statement of Recognised Gains and Losses, the Balance Sheet, the Cashflow Statement and the Statement of Operating Costs by Departmental Aim and Objectives and the related notes. These financial statements have been prepared under the accounting policies set out within them. I have also audited the information in the Remuneration Report that is described in that report as having been audited.

Respective responsibilities of the accounting officer and auditor

The accounting officer is responsible for preparing the Annual Report, which includes the Remuneration Report, and the financial statements in accordance with the Government Resources and Accounts Act 2000 and HM Treasury directions made thereunder and for ensuring the regularity of financial transactions. These responsibilities are set out in the Statement of Accounting Officer's Responsibilities.

My responsibility is to audit the financial statements and the part of the Remuneration Report to be audited in accordance with relevant legal and regulatory requirements, and with International Standards on Auditing (UK and Ireland).

I report to you my opinion as to whether the financial statements give a true and fair view and whether the financial statements and the part of the Remuneration Report to be audited have been properly prepared in accordance with HM Treasury directions issued under the Government Resources and Accounts Act 2000. I report to you whether, in my opinion, the information, which comprises the introduction to the resource accounts and Section 6, 'ORR as an effective combined safety and economic regulator', included within the Annual Report, is consistent with the financial statements. I also report whether, in all material respects, the expenditure and income have been applied to the purposes intended by Parliament and the financial transactions conform to the authorities which govern them.

In addition, I report to you if the Department has not kept proper accounting records, if I have not received all the information and explanations I require for my audit, or if information specified by HM Treasury regarding remuneration and other transactions is not disclosed.

I review whether the Statement on Internal Control reflects the Department's compliance with HM Treasury's guidance, and I report if it does not. I am not required to consider whether this statement covers all risks and controls, or to form an opinion on the effectiveness of the Department's corporate governance procedures or its risk and control procedures.

I read the other information contained in the Annual Report and consider whether it is consistent with the audited financial statements. This other information comprises the Chairman's Foreword, the Chief Executive's Review, Sections 1-5 and the unaudited part of the Remuneration Report. I consider the implications for my report if I become aware of any apparent misstatements or material inconsistencies with the financial statements. My responsibilities do not extend to any other information.

Basis of audit opinions

I conducted my audit in accordance with International Standards on Auditing (UK and Ireland) issued by the Auditing Practices Board. My audit includes examination, on a test basis, of evidence relevant to the amounts, disclosures and regularity of financial transactions included in the financial statements and the part of the Remuneration Report to be audited. It also includes an assessment of the significant estimates and judgments made by the Accounting Officer in the preparation of the financial statements, and of whether the accounting policies are most appropriate to the Department's circumstances, consistently applied and adequately disclosed.

I planned and performed my audit so as to obtain all the information and explanations which I considered necessary in order to provide me with sufficient evidence to give reasonable assurance that the financial statements and the part of the Remuneration Report to be audited are free from material misstatement, whether caused by fraud or error and that in all material respects the expenditure and income have been applied to the purposes intended by Parliament and the financial transactions conform to the authorities which govern them. In forming my opinion I also evaluated the overall adequacy of the presentation of information in the financial statements and the part of the Remuneration Report to be audited.

Opinions

In my opinion:

- the financial statements give a true and fair view, in accordance with the Government Resources and Accounts Act 2000 and directions made thereunder by HM Treasury, of the state of the Department's affairs as at 31 March 2008, and the net cash requirement, net resource outturn, net operating cost, operating costs applied to objectives, recognised gains and losses and cashflows for the year then ended;
- the financial statements and the part of the Remuneration Report to be audited have been properly prepared in accordance with HM Treasury directions issued under the Government Resources and Accounts Act 2000; and
- information, which comprises the introduction to the resource accounts and Section 6 'ORR as an effective combined safety and economic regulator', included within the Annual Report, is consistent with the financial statements.

Opinion on Regularity

In my opinion, in all material respects, the expenditure and income have been applied to the purposes intended by Parliament and the financial transactions conform to the authorities which govern them.

Report

I have no observations to make on these financial statements.

T.J. Burr
Comptroller and Auditor General
National Audit Office
151 Buckingham Palace Road
Victoria
London SW1W 9SS

18 June 2008

Statement of Parliamentary Supply

Summary of Resource Outturn 2007-08

Request for Resources	Estimate			Outturn			2007-08	2006-07
	Gross Expenditure	A in A	Net Total	Gross Expenditure	A in A	Net Total	Net Total outturn compared with Estimate:	Outturn
	£000	£000	£000	£000	£000	£000	saving/ (excess) £000	Net Total £000
To create a better railway for passengers and freight, and better value for public funding authorities, through independent, fair and effective regulation (Note 2)	32,704	(32,702)	2	30,497	(30,495)	2	-	2
Total resources (Note 3)	32,704	(32,702)	2	30,497	(30,495)	2	-	2
Non-operating cost A in A	-	-	-	-	-	-	-	-

The notes on pages 111 to 136 form part of these accounts.

Net cash requirement 2007-08

				2007-08 £000	2006-07 £000
	Note	Estimate	Outturn	Net total outturn compared with estimate: saving/(excess)	Outturn
Net cash requirement	4	4,796	4,546	250	69

Summary of income payable to the Consolidated Fund

In addition to appropriations in aid, the following income relates to the Department and is payable to the Consolidated Fund (cash receipts being shown in italics).

		Forecast 2007-08		Outturn 2007-08	
		£000		£000	
	Note	Income	Receipts	Income	Receipts
Total	5	-	-	5,980	<i>5,980</i>

**Operating Cost Statement
for the year ended 31 March 2008**

			2007-08	2006-07
	Note	Staff Costs	Other Costs	Income
		£000	£000	£000
Administration Costs:				
Staff Costs	7	19,833		19,127
Other administration costs	8		10,664	10,054
Operating income	9		(30,495)	(29,179)
Totals		19,833	10,664	(30,495)
Net Operating Cost	3		2	2

**Statement of Recognised Gains and Losses
for the year ended 31 March 2008**

	2007-08	2006-07
	£000	£000
Net Operating Cost	2	2
Net gain on revaluation of tangible fixed assets	(232)	(112)
Actuarial (gain)/loss on by-analogy pension scheme	(26)	68
Recognised gains for the financial year	(256)	(42)

The notes on pages 111 to 136 form part of these accounts.

Balance Sheet
as at 31 March 2008

	Note	31 March 2008		31 March 2007	
		£000	£000	£000	£000
Fixed assets:					
Tangible assets	10	3,745		4,073	
Intangible assets	11	262		253	
			4,007		4,326
Current assets:					
Debtors	12	730		757	
Cash at bank and in hand	13	3,784		478	
		4,514		1,235	
Creditors (amounts falling due within one year)	14	(8,016)		(6,661)	
Net current liabilities			(3,502)		(5,426)
Total assets less current liabilities			505		(1,100)
Provisions for liabilities and charges	15		(755)		(468)
Other payables >1 year	14		(291)		-
Total net liabilities before pension provision			(541)		(1,568)
Pension liabilities	15		(393)		(370)
Total net liabilities			(934)		(1,938)
Taxpayers' equity:					
General fund	16		(1,414)		(2,225)
Revaluation reserve	17		480		287
			(934)		(1,938)



Bill Emery
accounting officer
17 June 2008

Cash Flow Statement for year ended 31 March 2008

		2007-08	2006-07
		£000	£000
	Note		
Net cash inflow from operating activities	18a	360	2,153
Capital expenditure and financial investment	18b	(1,122)	(1,675)
Payments of amounts due to the Consolidated Fund	18e	(478)	(5,333)
Financing	18d	4,546	-
Increase/(Decrease) in cash in the period	18e	3,306	(4,855)

Statement of Operating Costs by Departmental Aim and Objectives for the year to 31 March 2008

	2007-2008			2006-07		
	£000	£000	£000	£000	£000	£000
	Gross	Income	Net	Gross	Income	Net
Aim:						
ORR applies independent, fair and effective regulation to enable the railway to be safe, well maintained and efficient and to ensure that it provides value for money for users and for its funders						
Objective 1 – Improving health and safety performance	12,076	(12,075)	1	11,601	(11,600)	1
Objective 2 – Securing improved efficiency and performance	2,949	(2,949)	-	2,775	(2,775)	-
Objective 3 – Securing robust plans for 2009 and beyond	2,412	(2,412)	-	2,463	(2,463)	-
Objective 4 – Improving and aligning relationships and incentives in the industry	2,293	(2,293)	-	2,811	(2,811)	-
Objective 5 – ORR as an effective combined safety and economic regulator ²	10,767	(10,766)	1	9,531	(9,530)	1
Net operating costs	30,497	(30,495)	2	29,181	(29,179)	2

An explanation of the methodology for allocating costs to objectives is given in note 1.15 and note 19.

² This title has changed from 2006-07, to conform with the 2007-08 Business Plan. There has been no change to the component parts

Office of Rail Regulation Annual Report and Accounts 2007-08

Notes to the departmental resource accounts

1. Statement of accounting policies

The accounts have been prepared in accordance with the 2007-08 Government Financial Reporting Manual (FReM) issued by HM Treasury. The accounting policies contained in the FReM follow UK generally accepted accounting practice for companies (UK GAAP) to the extent that it is meaningful and appropriate to the public sector.

In addition to the primary statements prepared under UK GAAP, the FReM also requires the Department to prepare two additional primary statements. The *Statement of Parliamentary Supply* and supporting notes show outturn against Estimate in terms of the net resource requirement and the net cash requirement. The *Statement of Operating Cost by Departmental Aim and Objectives* and supporting notes analyse the Department's income and expenditure by the objectives agreed by its Board in consultation with licence fee payers.

Where the FReM permits a choice of accounting policy, the accounting policy which has been judged to be most appropriate to the particular circumstances of the Department for the purpose of giving a true and fair view has been selected. The Department's accounting policies have been applied consistently in dealing with items considered material in relation to the accounts.

We do not exercise in-year budgetary control over any other public or private body. We are a single entity department whose entire operations are within the accounting boundary reflected in these accounts.

1.1 Accounting convention

These accounts have been prepared under the historical cost convention modified to account for the revaluation of fixed assets at their value to the business by reference to their current costs.

1.2 Tangible fixed assets

These comprise fitting out costs, furniture, office and telecommunications equipments and computers. The minimum level for capitalisation of a tangible fixed asset is £5,000.

Tangible fixed assets are carried at valuation in existing use and stated at current cost using appropriate indices provided by the Office of National Statistics.

1.3 Depreciation

Depreciation is provided at rates calculated to write off the valuation of tangible fixed assets by equal instalments over their estimated useful lives. Lives are normally in the following ranges:

Fitting out costs	up to 15 years (limited to period of remaining lease)
Furniture, Office & Telecom Equipment	5 - 10 years
Information Technology & purchased software licences	3 - 5 years
Motor Vehicles	3 years

1.4 Intangible fixed assets

Purchased computer software licences are capitalised as intangible fixed assets where expenditure of £5,000 or more is incurred. Software licences are amortised over the shorter of the term of the licence and the useful economic life. The useful economic life for software is normally 3 years. Intangible fixed assets are stated at current cost using appropriate indices provided by the Office of National Statistics.

1.5 Operating income

Operating income is income which relates directly to ORR's operating activities. It comprises licence fees, safety levies and safety related income. It includes not only income appropriated-in-aid of the Estimate but also income payable to the Consolidated Fund, which in accordance with FReM is treated as operating income. The operating income is stated net of VAT.

Since all costs are recovered via the licence fees or safety levy and these are invoiced based on estimated costs, any over recovery is treated as deferred income within Creditors, and any under recovery is treated as accrued income within Debtors.

1.6 Administration expenditure

In the Operating Cost Statement administration costs reflect the costs of running ORR. These include both administration costs and associated operating income. Income is analysed in the Notes between that which, under the administrative cost-control regime, is allowed to be offset against gross administration costs in determining the outturn against the administration cost limit, and that operating income which is not.

1.7 Capital charge

A charge, reflecting the cost of capital utilised by ORR, is included in operating costs. The charge is calculated at the real rate set by HM Treasury (currently 3.5 per cent) on the average carrying amount of all assets less liabilities, except for:

- a cash balances with the Office of the Paymaster General, where the charge is nil;
- b liabilities for amounts to be surrendered to the Consolidated Fund, where the credit is nil.

1.8 Foreign exchange

Transactions which are denominated in a foreign currency are translated into sterling at the rate of exchange ruling on the date of each transaction,

except where rates do not fluctuate significantly, in which case an average rate for a period is used.

1.9 Pensions

Past and present employees are covered by the provisions of the Principal Civil Service Pension Scheme (PCSPS). The defined benefit schemes are unfunded and are non-contributory except in respect of dependants' benefits. ORR recognises the expected cost of providing pensions on a systematic and rational basis over the period during which it benefits from employees' services by payment to the PCSPS of amounts calculated on an accruing basis. Liability for payment of future benefits is a charge on the PCSPS. In respect of the defined contribution schemes, ORR recognises the contributions payable for the year.

In addition, eight present employees are covered by the provisions of the Railways Pension Scheme (RPS) which is contributory and funded. The BR section of the RPS is a defined benefit scheme with the obligations met by the trustees. The benefits of the BR section are ultimately guaranteed by the Secretary of State. The amount paid in respect of these pensions is shown under staff costs in the Operating Cost Statement.

Past Rail Regulators and the current Chairman have separate pension arrangements that are broadly analogous with the PCSPS. Like the PCSPS, the pension arrangements are defined benefits and unfunded schemes. A provision to meet ORR's liability for future payment is included in these accounts. The provision is based on actuarial valuations carried out by the Government Actuary's Department. The amounts paid and provided under these pension arrangements are included in the Operating Cost Statement and shown in Note 15.

1.10 Operating leases

Rentals due under operating leases are charged to the Operating Cost Statement over the lease term on a straight-line basis, or on the basis of actual rentals payable which fairly reflects the usage. Future payments, disclosed at Note 21, "Commitments under leases", are not discounted.

1.11 Provisions

ORR provides for legal or constructive obligations which are of uncertain timing or amount at the balance sheet date on the basis of the best estimate of the expenditure required to settle the obligation. Where the effect of the time value of money is significant, the estimated risk-adjusted cash flows are discounted using the real rate set by HM Treasury (currently 2.2 per cent). The provisions for past Rail Regulators' pension commitments have also been assessed using a discount rate of 2.5 per cent net of price inflation: (2006-07: 2.8 per cent).

1.12 Value Added Tax (VAT)

Most of ORR's activities are outside the scope of VAT and in general output tax does not apply and input tax on some purchases is not

recoverable. Irrecoverable VAT is charged to the relevant expenditure category or included in the capitalised purchase cost of fixed assets. Where output tax is charged or input VAT is recoverable, the amounts are stated net of VAT.

1.13 Going concern

The balance sheet at 31 March 2008 shows a negative Taxpayers Equity of £0.934million. This reflects the inclusion of liabilities falling due in 2008-09, including the repayment of excess cash to Treasury's Consolidated Fund. Any liabilities in excess of cash receivable in year are financed mainly by drawings from the UK Consolidated Fund. Such drawings are from grants of Supply approved annually by Parliament, to meet ORR's Net Cash Requirement. Under the Government Resources and Accounts Act 2000, no money may be drawn from the Fund other than required for the service of the specified year or retained in excess of that needed. All unspent cash, including those derived from ORR's income, are surrenderable to the Fund.

In common with other government departments, the future financing of ORR's liabilities is accordingly to be met by future grants of Supply and the application of future income, both to be approved annually by Parliament. Such approval for amounts required for 2008-09 has already been given. It has accordingly been considered appropriate to adopt a going-concern basis for the preparation of these financial statements.

1.14 Contingent Liabilities

In addition to contingent liabilities disclosed in accordance with FRS 12, the department discloses for parliamentary reporting and accountability purposes certain statutory and non-statutory contingent liabilities where the likelihood of a transfer of economic benefit is remote, but which have been reported to Parliament in accordance with the requirements of Government Accounting.

Where the time value of money is material, contingent liabilities which are required to be disclosed under FRS 12 are stated at discounted amounts and the amount reported to Parliament separately noted. Contingent liabilities that are not required to be disclosed by FRS 12 are stated at the amounts reported to Parliament.

1.15 Statement of Operating Costs by Departmental Aim and Objectives

The Statement of Operating Costs by Departmental Aim and Objectives has been prepared from the underlying books and records. Where possible costs have been directly attributed to each objective. Overhead costs have been attributed in proportion to staff numbers.

2. Analysis of net resource outturn by function

	Outturn					2007-08	2006-07
						Estimate	
	Admin	Gross resource expenditure	A in A	Net Total	Net Total	Net Total outturn compared with Estimate	Prior-year outturn
	£000	£000	£000	£000	£000	£000	£000
Request for resources 1: To create a better railway for passengers and freight, and better value for public funding authorities, through independent, fair and effective regulation							
A. Administration, associated capital other expenditure	12,359	12,359	(12,358)	1	1	-	1
B. Rail Safety Regulation	18,138	18,138	(18,137)	1	1	-	1
Resource Outturn	30,497	30,497	30,495	2	2	-	2

3. Reconciliation of outturn to net operating cost and against Administration Budget

3(a) Reconciliation of net resource outturn to net operating cost

			2007- 08	2006-07
	Note	Outturn	Supply Estimate	Outturn compared with Estimate
		£000	£000	£000
Net Resource Outturn	2	2	2	-
Net operating cost		2	2	-

3(b) Outturn against final Administration Budget

		2007-08		2006-07	
		Budget	Outturn	Budget	Outturn
		£000	£000	£000	£000
Gross Administration Budget		32,704	30,497	32,704	29,181
Income allowable against the Administration Budget		(32,702)	(30,495)	(32,702)	(29,179)
Net outturn against final Administration Budget		2	2	2	2

4. Reconciliation of resources to cash requirement

	Note	Estimate	Outturn	Net total outturn compared with estimate: (saving)/excess
		£000	£000	£000
Resource Outturn	2	2	2	-
Capital				
Acquisition of fixed assets	10,11	750	599	151
Non Operating A-in-A				
Proceeds of fixed asset disposals		-	(39)	39
Accruals adjustments				
Non-cash items (staff costs)	7		(34)	34
Non-cash items (other administration costs)	8	(1,140)	(1,539)	399
Changes in working capital other than cash		5,178	1,678	3,500
Use of provision	15	6	95	(89)
Excess cash receipts surrenderable to the Consolidated Fund	5	-	3,784	(3,784)
Net cash requirement		4,796	4,546	(250)

5. Analysis of income payable to the Consolidated Fund

In addition to appropriations in aid, the following income relates to the department and is payable to the Consolidated Fund (cash receipts being shown in italics):

	Note	Income	Receipts	Income	Receipts
		£000	£000	£000	£000
Excess cash surrenderable to the Consolidated Fund	13	-	-	3,784	<i>3,784</i>
Other amounts collectable on behalf of the Consolidated Fund	18f	-	-	2,196	<i>2,196</i>
Total income payable to the Consolidated Fund		-	-	5,980	<i>5,980</i>

6. Reconciliation of income recorded within the Operating Cost Statement to operating income payable to the Consolidated Fund

	Note	2007-08	2006-07
		£000	£000
Operating income	9	30,495	29,179
Income authorised to be appropriated-in-aid		30,495	29,179
Operating income payable to the Consolidated Fund		-	-

7. Staff numbers and related costs

Staff costs comprise:

	2007-08		2006-07	
	Total	Permanently employed staff	Others	Total
	£000	£000	£000	£000
Wages and salaries	15,365	14,871	494	14,981
Social security costs	1,338	1,338	-	1,274
Other pension costs	3,108	3,108	-	2,847
Sub Total	19,811	19,317	494	19,102
Less recoveries in respect of outward secondments	(12)	(12)	-	-
Total	19,799	19,305	494	19,102
Non cash items: By analogy pension current service costs	34	34	-	25
Total net costs*	19,833	19,339	494	19,127

*of the total no charge has been made to capital

Included in the figure for other pension costs are employers' contributions of £2,918,685 payable to the PCSPS (2006-07: £2,712,860) at one of four rates in the range 17.1 to 25.5 per cent (2006-07: 16.2 to 24.6 per cent) of pensionable pay, based on salary bands. The scheme's Actuary reviews employer contributions every four years following a full scheme valuation. The contribution rates reflect benefits as they are accrued, not when the costs are actually incurred, and reflect past experience of the scheme.

The PCSPS is an unfunded multi-employer defined benefit scheme and ORR is unable to identify its share of the underlying assets and liabilities. Details can be found in the resource accounts of the Cabinet Office: Civil Superannuation (www.civilservice-pensions.gov.uk).

The Railway Pension Scheme (RPS) is a funded multi-employer defined benefit scheme administered by Railway Pensions Trustee Company Limited. This is a defined benefit scheme which prepares its own scheme statements. Details of the RPS pensions statements can be found in the Annual Report and Accounts of the RPS at www.railwaypensions.co.uk. Employer contributions of £137,386 were paid to the trustees of the RPS in 2007-08 at a rate of 2.2825 times the individual member's contributions, on the basis of actuarial valuations (2006-07: £130,094). ORR matches some of the BRASS2 contributions (an AVC scheme) made by the members. In 2007-08, matching contributions of £4,908 were made (2006-07: £4,506).

With regard to the accrued pension costs for the current Chairman and past Rail Regulators, notional contributions of £34,000 as advised by the Government Actuary have been charged to the Operating Cost Statement, (2006-07: £25,000). The liability at 31 March 2008 is estimated at £393,000 (31 March 2007: £370,000).

Average number of persons employed

The average number of whole-time equivalent persons employed during the year was as follows.

Objective	2007-08		2006-07	
	Total	Permanent staff	Others	Total
	Number	Number	Number	Number
Improving health and safety performance	163	162	1	179
Securing improved efficiency and performance	35	34	1	23
Securing robust plans for 2009 and beyond	16	16		25
Improving and aligning relationships and incentives in the industry	29	28	1	54
ORR as an effective combined safety and economic regulator ³	110	98	12 ⁴	98
Total	353	338	15	379

³ This title has changed from 2006-07 to conform with the 2007-08 Business Plan. There has been no change to the component parts

⁴ Includes 6 Non-Executive Directors

8. Other Administration Costs

	2007-08	2006-07
	£000	£000
Rentals under operating leases		
Hire of Office Equipment	49	56
Other Operating Leases	899	1,070
	948	1,126
Non-cash items		
Depreciation	865	657
Amortisation	117	61
Gain on disposal of fixed assets	(12)	-
Cost of capital credit	(53)	(81)
Interest charges in respect of by-analogy pension scheme	18	15
Diminution in value of fixed assets	186	194
Auditors' remuneration and expenses*	37	35
	1,158	881
Provisions:		
Provision for redundancy costs	60	318
Provision for dilapidations and other leasehold liabilities	321	-
Release of provision for accommodation costs	-	(7)
Provision for tax on benefits in kind	-	15
	381	326
Other		
Travel and subsistence	1,133	1,093
Hospitality	40	41
Consultancies	2,613	2,184
IT and telecommunications	1,207	1,061
Landlord service charges and rates	743	554
Printing and stationery	410	412
Recruitment and training	657	544
Other	1,374	1,832
	8,177	7,721
	10,664	10,054

*There was no auditor remuneration for non-audit work

9. Income

	Note	2007-08	2006-07
		£000	£000
Licence fees	RfR1	12,652	13,828
Less: Income deferred to future year	RfR1 14a	(294)	(1,431)
Safety Levy and related safety income	RfR1	18,052	18,460
Less: Income deferred to future year	RfR1 14a	(83)	(1,898)
Miscellaneous income	RfR1	168	220
		30,495	29,179

10. Tangible fixed assets

	Fitting out costs	Furniture, Office Equipment and Telecoms	Information Technology	Information Technology assets under construction	Motor Vehicles	Total
	£000	£000	£000	£000	£000	£000
Cost or valuation						
At 1 April 2007	2,883	796	1,260	301	60	5,300
Write off	-	(5)	-	-	-	(5)
Additions	68	41	355	-	-	464
Disposals	-	-	-	-	(60)	(60)
Reclassifications	-	-	301	(301)	-	-
Revaluations	50	46	(106)	-	-	(10)
At 31 March 2008	3,001	878	1,810	-	-	5,689
Depreciation						
At 1 April 2007	233	244	731	-	19	1,227
Charged in year	196	136	480	-	14	826
Disposals	-	-	-	-	(33)	(33)
Revaluations	20	19	(115)	-	-	(76)
At 31 March 2008	449	399	1,096	-	-	1,944
Net book value at 31 March 2008	2,552	479	714	-	-	3,745
Net book value at 31 March 2007	2,650	552	529	301	41	4,073

11. Intangible fixed assets

Intangible fixed assets comprise software licences

	Total
	£000
Cost or valuation	
At 1 April 2007	548
Additions	135
Disposals: actual cost	-
Revaluation	(30)
At 31 March 2008	653
Amortisation	
At 1 April 2007	295
Charged in year	117
Revaluation	(21)
Disposals: depreciation on cost	-
At 31 March 2008	391
Net book value at 31 March 2008	262
Net book value at 31 March 2007	253

12. Debtors

12(a) Analysis by type

	<u>2007-08</u>	<u>2006-07</u>
	<u>£000</u>	<u>£000</u>
Amounts falling due within one year:		
Trade debtors	234	308
Staff Debtors	112	106
Prepayments and accrued income	279	178
HM Revenue and Customs (VAT)	105	147
Payroll deposit account	-	18
Total debtors at 31 March 2008	<u>730</u>	<u>757</u>

Included in staff debtors are season ticket loans for 90 employees totalling £98,841 (2006-07: £78,561 for 90 employees) and £13,171 relating to other advances made to 49 employees (2006-07: £24,508).

12(b) Intra-Government Balances

	Amounts falling due within one year	
	<u>2007-08</u>	<u>2006-07</u>
	<u>£000</u>	<u>£000</u>
Balances with other central government bodies	264	168
Balances with bodies external to government	466	589
Total debtors at 31 March 2008	<u>730</u>	<u>757</u>

13. Cash at bank and in hand

	2007-08	2006-07
	£000	£000
Balance at 1 April	478	5,333
Net change in cash balances	3,306	(4,855)
Balance at 31 March	3,784	478

The following balances at 31 March were held at:

Office of HM Paymaster General	3,766	433
Commercial banks and cash in hand	18	45
Balance at 31 March	3,784	478

The balance at 31 March comprises excess cash surrenderable to the Consolidated Fund

3,784	478
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14. Creditors

14(a) Analysis by type

	2007-08	2006-07
	£000	£000
Amounts falling due within one year		
Trade creditors	912	4
Other creditors	724	-
Accruals	2,219	2,844
Deferred income	377	3,335
Excess cash surrenderable to the Consolidated Fund		
Received	3,784	478
Total creditors at 31 March	8,016	6,661
Amounts falling due after more than one year ⁵	291	-

14(b) Intra-Government Balances

	Amounts falling due within one year	
	2007-08	2006-07
	£000	£000
Balances with other central government bodies	5,501	478
Balances with bodies external to government	2,806	6,183
Total creditors at 31 March	8,307	6,661

⁵ Long-term creditors were reviewed during the year and are now shown separately

15. Provisions for liabilities and charges

	Early retirement	Accommodation	Taxable benefits in kind	Total
	£000	£000	£000	£000
Balance at 1 April 2007	446	-	23	469
Provided in the year	104	321	-	425
Provisions not required written back	(44)	-	-	(44)
Provisions utilised in the year	(84)	-	(11)	(95)
Balance at 31 March 2008	422	321	12	755

The provision for accommodation has been established in order to satisfy the obligation to return our offices to their original condition in 2019.

Details for by-analogy defined benefit pension schemes

Class	As at 31 March 2008	As at 31 March 2007
	£000	£000
Actives	133	102
Deferreds	138	145
Pensioners	122	123
Total Present Value of the Scheme Liabilities	393	370
	2007-08	2006-07
Liability calculation	£000	£000
Present value of scheme at 1 April	370	265
Current service cost (net of employee contribution)	34	25
Employee contribution	4	4
Interest costs	18	15
Actuarial gains/losses	(26)	68
Less: benefits paid	(7)	(7)
Balance at 31 March	393	370

Former Rail Regulators and the current Chairman benefit from a defined benefit pension scheme by analogy with the PCSPS. An actuarial valuation was carried out on the scheme by the Government Actuary's Department (GAD) at 31 March 2005. In 2007-08 ORR contributed £34k in respect of the active member, and £18k in respect of interest costs. GAD have advised that ORR contribution for 2007-08 should be estimated at 21.5% of gross salary of the active member.

The pension provision is unfunded, with benefits being paid as they fall due and guaranteed by the employer. There is no fund, and therefore no surplus or deficit.

Relevant financial assumptions made by the actuary are as follows:

	As at 31 March 2008	As at 31 March 2007
	% per annum	% per annum
Inflation	2.75%	2.75%
Rate of increase in salaries	4.30%	4.30%
Rate of increase for pensions in payment and deferred pensions	2.75%	2.75%
Rate used to discount scheme liabilities	5.30%	4.60%

16. General Fund

The General Fund represents the total assets less liabilities of each of the entities within the accounting boundary, to the extent that the total is not represented by other reserves and financing items.

	<u>2007-08</u>	<u>2006-07</u>
	<u>£000</u>	<u>£000</u>
Balance at 1 April	(2,225)	(1,758)
Net Parliamentary Funding		
Drawn Down	4,546	-
Machinery of Government General Fund transfer	2	118
Net Transfer from Operating Activities		
Net Operating Cost	(2)	(2)
Excess cash surrenderable to the Consolidated Fund	(3,784)	(478)
Non Cash Charges		
Cost of Capital Credit	(53)	(81)
Auditors' remuneration	37	35
Transfer from Revaluation Reserve	39	9
Gain/(Loss) relating to pension liabilities	26	(68)
Balance at 31 March	<u>(1,414)</u>	<u>(2,225)</u>

17. Revaluation Reserve

The revaluation reserve reflects the unrealised element of the cumulative balance of indexation and revaluation adjustments (excluding donated assets).

	2007-08	2006-07
	£000	£000
Balance at 1 April	287	184
Arising on revaluation during the year (net)	96	25
Transferred to General Fund in respect of realised element of the revaluation reserve	(39)	(9)
Additional depreciation charged on revaluation of assets	136	87
Balance at 31 March	480	287

18 Notes to the Cash Flow Statement

18(a) Reconciliation of operating cost to operating cash flows

	Note	2007-08	2006-07
		£000	£000
Net operating cost	3	2	2
Adjustments for non-cash transactions	7,8	(1,573)	(1,232)
Decrease in Debtors		(27)	(1,555)
Decrease in Creditors		1,143	44
Use of provisions	15	95	588
Net cash inflow from operating activities		(360)	(2,153)

18(b) Analysis of capital expenditure and financial investment

	2007-08	2006-07
	£000	£000
Tangible fixed asset additions	965	1,523
Intangible fixed asset additions	196	152
Proceeds of disposal of fixed assets	(39)	-
Net cash outflow from investing activities	1,122	1,675

18(c) Analysis of capital expenditure and financial investment by Request for Resources

All capital expenditure and financial investment relate to Request for Resources 1.

18(d) Analysis of financing

	Note	2007-08	2006-07
		£000	£000
From the Consolidated Fund (Supply) – current year	16	4,546	-
Advances from the Contingencies Fund		10,000	10,000
Repayments to the Contingencies Fund		(10,000)	(10,000)
Net financing		4,546	-

18(e) Reconciliation of Net Cash Requirement to increase in cash

	Note	2007-08	2006-07
		£000	£000
Net cash requirement	4	(4,546)	-
From the Consolidated Fund (Supply) – current year	18(d)	4,546	-
Amounts due to the Consolidated Fund – received in a prior year and paid over		(478)	(5,333)
Amounts due to the Consolidated Fund received and not paid over		3,784	478
Increase/(Decrease) in cash		3,306	(4,855)

18(f) £2.2million was received from EWS in respect of fines levied by the Department. This was paid over to the Consolidated Fund during the year.

19. Notes to the Statement of Operating Costs by Departmental Aim and Objectives

Programme grants and other current expenditures have been allocated as follows:

	2007-08	2006-07
	£000	£000
Objective 1 – Improving health and safety performance	12,076	11,601
Objective 2 – Securing improved efficiency and performance	2,949	2,775
Objective 3 – Securing robust plans for 2009 and beyond	2,412	2,463
Objective 4 – Improving and aligning relationships and incentives in the industry	2,293	2,811
Objective 5 – ORR as an effective combined safety and economic regulator ⁶	10,767	9,531
Total	30,497	29,181

Where possible costs have been directly attributed to each objective. Overhead costs have been attributed in proportion to staff numbers.

ORR's capital is employed exclusively for administrative purposes.

20. Capital commitments

There are no contracted commitments at 31 March 2008 and no provision has been made (31 March 2007:nil).

⁶ The title has changed from 2006-07 to conform with the 2007-08 Business Plan. There has been no change to the component parts.

21. Commitments under leases

21.1 Operating leases

Commitments under operating leases to pay rentals during the year following the year of these accounts are given in the table below, analysed according to the period in which the lease expires.

	2007-08	2006-07
	£000	£000
Obligations under operating leases comprise:		
Land and buildings:		
Expiry within 1 year	-	-
Expiry after 1 year but not more than 5 years	-	-
Expiry thereafter	904	904
	904	904
Other:		
Expiry within one year	50	-
Expiry after 1 year but not more than 5 years	-	43
Expiry thereafter	-	-
	50	43

22. Other financial commitments

The department had not entered into any non-cancellable contracts (which are not operating leases) for any new capital expenditure as at 31 March 2008 (31 March 2007:nil).

23. Losses and Special Payments

Special payments to two members of staff amounting to £35,000 were made in the year.

24. Financial Instruments

FRS 13, Derivatives and Other Financial Instruments, requires disclosure of the role which financial instruments have had during the period in creating or changing the risks an entity faces in undertaking its activities. Because of the largely non-trading nature of its activities and its licence fee financing structure, ORR is not exposed to the degree of financial risk faced by business entities. Moreover, financial instruments play a much more limited role in creating or changing risk than would be typical of the listed companies to which FRS 13 mainly applies. ORR has no powers to borrow or invest surplus funds. Financial assets and liabilities are generated by day-to-day operational activities and are not held to change the risks facing the department in undertaking its activities.

As permitted by FRS 13, debtors and creditors which mature or become payable within 12 months from the balance sheet date have been omitted from the currency profile.

Liquidity risk

ORR's net revenue resource requirements are financed by resources voted annually by Parliament, as is its capital expenditure. ORR is not therefore exposed to significant liquidity risks.

Interest rates and foreign currency risks

ORR is not exposed to any significant interest rate or foreign currency risks.

Fair values

There is no material difference between the book values and fair values of ORR's financial assets and liabilities as at 31 March 2008.

25. Contingent liabilities disclosed under FRS 12

There were no reportable contingent liabilities at 31 March 2008 (31 March 2007:nil).

26. Related Party Transactions

There have been a small number of transactions with other government departments and other central government bodies. Most of these transactions have been with the Department for Transport and relate to the provision of payroll services and charges for internal audit services.

Additionally during the year £153,667 (2006-07: £137,100) of income was received from the Office of the Public Private Partnership Arbiter in respect of services provided by ORR. A balance of £6,521 (2007: £2,903) was outstanding at year end. The Office of the PPP Arbiter is a related party as Chris Bolt, ORR's Chairman, holds the position of PPP Arbiter.

No other board members, key managerial staff or other related parties have undertaken any material transactions with ORR during the year.

27. Post Balance Sheet Events

There have been no reportable post balance sheet events between the balance sheet date and 26 June 2008, the date when the Accounting Officer despatched the accounts to HM Treasury. The financial statements do not reflect events after this date.

Appendix 1

Safety activity tables

Summary of enforcement notices issued 2003-04 – 2007-08

	Improvement (IN)	Prohibition (PN)	Total
2003-04	39	17	56
2004-05	13	5	18
2005-06	16	6	22
2006-07	23	5	28
2007-08	16	6	22

Summary of complaints received 2003-04 –2007-08

	Number of Complaints
2003-04	768
2004-05	647
2005-06	593
2006-07	644
2007-08	510

Summary of prosecutions heard 2003-04 – 2007-08

Year	Number of prosecutions heard	Total fines	Total costs
2003-04	23	£552,750	£119,076
2004-05	20	£14,392,600	£866,441
2005-06	2	£23,000	£3,507
2006-07	5	£943,000	£132,770
2007-08	2	£35,000	£13,536

Permissioning Activity 2007-08

Level Crossing Orders issued	65
ROTS Approvals issued	74
ROGS applications for Safety Certificates and Authorisations under assessment	32
Safety Certificates issued	21
Safety Authorisations issued	13
Interoperability Authorisations issued	8

Appendix 2 Economic activity tables

Licences granted	Date	P	NP	S	LMD	N
Eurostar (UK) Limited	20/04/07				•	
Grand Central Railway Company Limited	04/06/07	◆	•			
Midland Main Line Limited	08/06/07				•	
Hitachi Rail Maintenance UK Limited	13/07/07				•	
Victa Westlink Rail Limited	31/07/07	◆	◆			
SOLR1 Limited	10/10/07	◆				
SOLR2 Limited	10/10/07	◆				
Rail for London Limited	25/10/07	◆	•	•	•	
East Midlands Trains Limited	06/11/07	◆	•	•	•	
London & Birmingham Railway Limited	07/11/07	◆	•	•	•	
London Overground Rail Operations Ltd	07/11/07	◆	•	•	•	
XC Trains Limited	07/11/07	◆	•			
Europorte 2 SA	22/11/07		◆			
NXEC Trains Limited	05/12/07	◆	•	•	•	
Freight Europe (UK) Limited	28/12/07		◆			
Wrexham Shropshire and Marylebone Railway Company Limited	19/03/08	◆				

- ◆ European licence and/or a GB Statement of National Regulatory Provisions
- Licences and/or exemptions granted under the Railways Act 1993

P=passenger train, **NP**=freight/non-passenger train, **S**=station, **LMD**=light maintenance depot, **N**=network.

Exemptions granted	Date	P	NP	S	LMD	N
Bristol City Council	30/05/07	•	•	•	•	•
STVA UK Limited	31/05/07					•
Bridgeway Consulting Limited	06/06/07		•			
MDA Rail Limited	22/06/07		•			
Gwili Railway Company Limited	22/06/07	•	•	•		•
Vale of Glamorgan Railway Company Limited	25/09/07	•	•	•	•	•
Freightliner Maintenance Limited	19/10/07				•	
Associated British Ports	19/12/07		•		•	
Docklands Light Railway Limited	16/01/08			•		
Kilbride Properties (Swindon) Limited	13/02/08					•
WyvernRail Plc	04/03/08	•	•	•	•	•
Portsmouth City Council	05/03/08		•		•	•
Freightliner Railports Limited	19/03/08				•	•

- ◆ European licence and/or a GB Statement of National Regulatory Provisions
- Licences and/or exemptions granted under the Railways Act 1993

P=passenger train, **NP**=freight/non-passenger train, **S**=station, **LMD**=light maintenance depot, **N**=network.

Licences revoked	Date	P	NP	S	LMD	N
Midland Main Line Limited	20/11/07	◆	◆ •	•	•	
Silverlink Train Services Limited	20/11/07	◆		•	•	
Maintrain Limited	13/12/07				•	
Central Trains Limited	08/01/08	◆	•	•	•	
CrossCountry Trains Limited	08/01/08	◆	◆ •			
Great North Eastern Railway Limited	08/01/08	◆	◆ •	•	•	
Victa Westlink Rail Limited	14/01/08	◆	◆			
FM Rail Limited	07/02/08	◆	◆ •			

Exemptions revoked	Date	P	NP	S	LMD	N
Bridgen Enterprises Limited	07/12/07		•			
Associated British Ports	19/12/07		•		•	•
WyvernRail Plc (2004 exemption)	04/03/08	•	•	•	•	•
WyvernRail Plc (2005 exemption)	04/03/08	•	•	•		•

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P=passenger train, **NP**=freight/non-passenger train, **S**=station,
LMD=light maintenance depot, **N**=network.

ECONOMIC REGULATION -CASEWORK ACTIVITY TABLES

Access Contracts: 1 April 2007-31 March 2008	Track	Stations	Depots
New access agreements approved under section 18 of the railways act 1993	9	143	28
Agreements directed under section 17 of the Railways Act 1993	2	3	1
Amendments to existing agreements approved under section 22 of the Railways Act 1993	91	37	20
Amendments to existing agreements approved under section 22A of the Railways Act 1993	1	0	0
Amendments to existing agreements covered by general approval	75	87	7
Directions varied under section 144(3) of the Railways Act 1993	0	0	0

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