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Title: Rail Passengers' Rights and Obligations (Exemptions) (Amendment) Regulations 2015 IA No: Lead department or agency: Department for Transport Other departments or agencies: None	Impact Assessment (IA)		
	Date: 08/07/2014		
	Stage: Consultation		
	Source of intervention: EU		
	Type of measure: Secondary Legislation		
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Summary: Intervention and Options	RPC Opinion: Green
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Cost of Preferred (or more likely) Option				
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, Two-Out?	Measure qualifies as
ZERO	ZERO	ZERO	Yes	Zero Net Cost

What is the problem under consideration? Why is government intervention necessary?
 The European Regulation on rail passengers' rights and obligations, "the PRO", covers a wide range of policy areas. This includes changes to ensure that passengers' rights are safeguarded as they are the weaker party to the transport contract, the provision of information to passengers so that they are informed of their rights and that disabled persons and persons with reduced mobility have opportunities for rail travel comparable to those of other citizens. We could intervene by removing exemptions or continue to utilise our available derogations. Government intervention would be necessary to address the market failures (some of which is mentioned above), which the PRO intends to address.

What are the policy objectives and the intended effects?
 The primary policy objectives of the PRO regulations are to enhance and strengthen the rights of rail passengers. GB domestic services are currently exempt from all 'non-core' PRO Articles. This impact assessment explores the options and evidence for possible intervention. Removal of exemptions could provide additional passenger rights and secure early compliance, while maintaining exemptions will avoid industry cost burdens and make use of available derogations. The objective is that any decisions are considered, balanced, proportionate and informed by the consultation.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)
 Option 1: continue with the domestic exemptions until 2019.
 Option 2: to remove exemptions for Articles that will impose no additional cost to industry, but to maintain exemptions where there would be costs to industry.
 Option 3: remove the exemptions for 'non-core' articles of the PRO where costs are greatly outweighed by benefits to passengers. This could include removing all of the exemptions or removing only some of them depending on the evidence gathered from the consultation.
 Option 2 is our preferred option that provides better alignment between domestic and EU legislation but using a proportionate approach that balances a progressive, phased implementation of the PRO that makes use of available derogations where appropriate. It takes account of industry compliance costs and recognises existing passenger benefits being provided.

Will the policy be reviewed? It will be reviewed. If applicable, set review date: 2019

Does implementation go beyond minimum EU requirements?			Yes		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	Micro No	< 20 No	Small No	Medium No	Large No
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)			Traded: N/A		Non-traded: N/A

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:  Date: 1/9/14

Summary: Analysis & Evidence

Policy Option 2

Description: To remove the exemptions for PRO Articles that will impose no additional cost on the industry. However, this option does not remove exemptions if their expiry would otherwise impose costs on the industry.

FULL ECONOMIC ASSESSMENT

Price Base Year N/A	PV Base Year N/A	Time Period Years N/A	Net Benefit (Present Value (PV)) (£m)		
			Low: ZERO	High: ZERO	Best Estimate: ZERO

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	ZERO	ZERO	ZERO
High	ZERO	ZERO	ZERO
Best Estimate	ZERO	ZERO	ZERO

Description and scale of key monetised costs by 'main affected groups'

This option will impose no additional cost on the industry due to compliance with existing domestic legal requirements or best practice and other European legislation.

Other key non-monetised costs by 'main affected groups'

This option will impose no additional non-monetised cost on the industry due to compliance with existing domestic legal requirements or best practice and other European legislation.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	ZERO	ZERO	ZERO
High	ZERO	ZERO	ZERO
Best Estimate	ZERO	ZERO	ZERO

Description and scale of key monetised benefits by 'main affected groups'

This option will not result in any additional monetised benefits for passengers due to them already benefiting through existing domestic legal requirements or best practice and other European legislation.

Other key non-monetised benefits by 'main affected groups'

The key non-monetised benefits include that there will be better alignment of domestic and European legislation with no additional cost to business. This provides clarity to both industry and passengers about their respective rights and obligations. It may also facilitate enforcement and drive standards.

Key assumptions/sensitivities/risks	Discount rate (%)	N/A
<p>Assumption: that existing domestic requirements are equivalent to industry meeting the PRO provisions. This implicitly assumes that industry are compliant with those domestic requirements. We also assume that there will be a SI in place which has renewed all exemptions for the derogation period 2014-2019.</p> <p>Risk: that stakeholders do not provide sufficient / correct evidence for the final stage IA and that current information stakeholders have provided is inaccurate.</p>		

BUSINESS ASSESSMENT (Option 2)

Direct impact on business (Equivalent Annual) £m:	In scope of OITO?	Measure qualifies as
Costs: Zero	Yes	Zero net cost
Benefits: Zero		
Net: Zero		

Summary: Analysis & Evidence

Policy Option 3

Description: To remove the exemptions for all the 'non-core' articles of the PRO where there may be costs, but which are potentially outweighed by benefits to passengers. This will include all the articles listed in Option 2, as well as additional articles, which we believe come at a potential cost.

FULL ECONOMIC ASSESSMENT

Price Base Year N/A	PV Base Year N/A	Time Period Years N/A	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate:

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	NQ	NQ	NQ
High	NQ	NQ	NQ
Best Estimate	NQ	NQ	NQ

Description and scale of key monetised costs by 'main affected groups'

Due to limitations of the available evidence base, it has not been possible to monetise the potential costs of Option 3. Cost estimates provided by industry mentioned in the evidence base have not been included on the summary sheet because (a) estimates are based on analysis conducted in 2009 and over the last 5 years there may have been changes which would alter these cost estimates, and (b) industry will be providing revised cost estimates, and more detail on assumptions used, during the public consultation. Therefore the Department is not confident in the current cost estimates.

Other key non-monetised costs by 'main affected groups'

The key non-monetised costs include the loss of revenue due to the transferability of tickets and the additional cost of providing compensation in the event of delays and cancellations including in circumstances outside of the rail industry's control. All the key non-monetised costs of Option 3 are described in section 6.3.1. Consultees are invited to submit additional evidence during the public consultation.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	NQ	NQ	NQ
High	NQ	NQ	NQ
Best Estimate	NQ	NQ	NQ

Description and scale of key monetised benefits by 'main affected groups'

We believe that most of the costs to the rail industry of meeting the requirements of Option 3 is a transfer of payment from Train Operating Companies (TOCs) (who meet the compliance costs) to the passengers (who benefit from improved passenger rights). The costs are therefore imposed upon TOCs and result in direct equivalent benefits to the passengers. However, due to the limited evidence base, we have been unable to monetise these costs and therefore any of the associated benefits of Option 3 at this time.

Other key non-monetised benefits by 'main affected groups'

The benefits include improved rights of rail passengers in the areas of information and ticket provision, compensation and assistance in the event of delays and cancellations, and the rights for disabled persons and persons with reduced mobility. The detailed non-monetised benefits of Option 3 can be found in Section 6.3.1 of the evidence base.

Key assumptions/sensitivities/risks	Discount rate (%)	N/A
Assumptions: as above in option 2.		
Risks: a false-positive or a false-negative error (i.e. remove an exemption that results in high costs or do not remove exemption where few costs and a lot of benefits would have been otherwise realised)		

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:	In scope of OIOO?	Measure qualifies as
Costs: NQ	Yes	IN
Benefits: NQ		
Net: NQ		

Evidence Base (for summary sheets)

Key definitions:

ACoP = Approved Code of Practice
CAHA = Claims Allocation and Handling Agreement
CHP = Complaints Handling Procedure
CIRSRT = Computerised Information and Reservation System for Rail Transport
CIV = Contract for international Carriage of passengers by rail
DfT = Department for Transport
DPPP = Disabled People's Protection Policy
DPRM = Disabled persons and persons with reduced mobility
ERA = European Rail Agency
EU = European Union
IA = Impact Assessment
IT = Information Technology
LTW = London TravelWatch
NEB = National Enforcement Body
NR = Network Rail
NRCoC = National Rail Conditions of Carriage
NRE = National Rail Enquiries
OITO = One In Two Out
ORR = Office of Rail Regulation
PIDD = Passenger Information During Disruption
PIS = Passenger Information Systems
PRM TSI = Technical Standard of Interoperability for Persons with Reduced Mobility
PRO = EU Regulation 1371/2007 on Rail Passengers' Rights and Obligations
RSSB = Rail Safety and Standards Board
RU = Railway Undertaking
RVAR = The Rail Vehicle Accessibility Regulations
SI = Statutory Instrument
SQMS = Service Quality Management Systems
TAP TSI = Telematics applications for passengers services Technical Specification for Interoperability
The Act = Railways Act 2005
TOC = Train Operating Company
TSI = Technical Specification for Interoperability

1. TITLE OF PROPOSAL

Rail Passengers' Rights and Obligations (Exemptions) (Amendment) Regulations 2015

2. PROBLEM UNDER CONSIDERATION

The European Regulation No. 1371/2007 on rail passengers' rights and obligations, "the PRO", consists of 'core' Articles, which have applied to GB's domestic and international rail transport services since December 2009¹. As such, the 'core' mandatory elements of the PRO covered by Articles 9, 11, 12, 19, 20(1) and 26 do not form part of this Impact Assessment (IA).

Member States have the power² under the PRO to exempt domestic rail passenger services from the 'non-core' articles for up to 5 years³. This power can be renewed twice for a maximum period of 5 years on each occasion, culminating in a total period of 15 years.

The Government is in the process of exercising its power to exempt Great Britain's domestic railways from all of the 'non-core' Articles for a further period of five years. The Statutory Instrument (SI) that will provide for these exemptions must be in force on 4 December 2014.

However, the intention of that SI is to form a holding position, which is necessary to avoid the loss of exemptions by default and additional costs to industry. We will bring forward an additional SI in 2015 to remove certain exemptions for the period to 2019, in cases where passenger benefits greatly outweigh costs to business or where there are no costs to businesses.

This IA relates to the additional SI planned for 2015 that potentially removes exemptions where possible and addresses some of the market failures mentioned below. The Department is consulting widely on the possible options, and this IA forms part of that process and will allow the Department to make informed decisions about removing exemptions.

The PRO covers a wide range of policy areas and tries to address several market failures, which include ensuring:

- The provision of information to passengers so that they are informed of their rights, which allows them to make better choices
- Disabled persons and persons with reduced mobility (DPRMs), whether caused by disability, age or any other factor, have opportunities for rail travel comparable to those of other citizens
- That passengers' rights are safeguarded as they are the weaker party to the transport contract between them and the train operating company.

However, in this case, the specific problem under consideration is the timing of intervention on when to address the market failures as intended by the PRO. We could intervene now by removing exemptions or continue to utilise our available derogations. The consultation will provide evidence to inform these decisions.

3. RATIONALE FOR INTERVENTION

We consider that government intervention is needed to address the issues that have been raised in Section 2. Government intervention, in the form of laying an amending SI which removes certain exemptions would be necessary to address the market failures, which the PRO intends to address. Without government intervention the rail industry would continue to be exempt from all the 'non-core' articles until December 2019, without any opportunity for public consultation.

The current exemptions expire in December 2014 and the Government has taken the decision initially to renew all of these in full for a further 5 years, while consulting in parallel on options for

¹ The PRO does not apply to railway undertakings and transport services that are not licensed under Directive 2012/34/EU establishing a single European railway area (recast).

² Article 2 (4) of the PRO provides Member States with powers to grant exemptions from the 'non-core' articles of the Regulation

³ 'non-core' articles were also immediately mandatory for international services, i.e. Eurostar.

removing some or all of these exemptions in 2015. This will provide for full and proper consideration of options to remove exemptions, while retaining maximum flexibility to respond to issues raised by organisations and individuals consulted. We are therefore using this impact assessment and consultation document to explore the options and evidence for possible intervention in 2015.

We want to take proportionate and informed decisions on whether there is a need to remove exemptions. These decisions should balance:

- The additional benefits for passengers derived from PRO articles having effect;
- The extent to which the rail industry (including independent ticket vendors and tour operators for some articles) is already required by domestic regulation or other EU legislation to operate to standards that meet or exceed the PRO standards;
- The progress that has been made on delivering passenger rights during the first 5-year period of exemption, the benefits that passengers already receive through existing arrangements, and other planned actions;
- Where the PRO standards are not currently being met, the UK industry's current capability to do so and the costs of requiring them to meet those standards in 2015;
- The government's overall approach to regulation that seeks to avoid "gold-plating" (in this case not making full use of the derogation) and early implementation of European legislation.

4. POLICY OBJECTIVES

The primary European policy objectives of the PRO are to safeguard the rights of rail passengers and to improve the quality and effectiveness of rail transport. It does this by harmonising and supporting the rights of rail passengers in areas such as information provision, compensation and assistance, and accessibility rights for DPRMs. The PRO rights are enforced through a National Enforcement Body (the Office of Rail Regulation (ORR) in GB).

The specific objectives of intervention are as follows:

Remove exemptions

- For better alignment of existing domestic requirements or to codify existing industry practice in line with the requirements of the PRO, and to remove overlaps.
- To facilitate enforcement and drive up industry standards.
- To provide passengers with additional benefits in the areas where exemptions are removed.
- To demonstrate a progressive and proportionate approach to implementation of the PRO over the remaining 10 year potential exemption period, and to demonstrate industry progress towards meeting the PRO standards .

Retain exemptions

- To recognise the practical difficulties and costs of meeting PRO standard in some areas, and where these costs outweigh passenger benefits.
- Where planned actions will deliver the intentions of the PRO in due course, but not by the expiry of the current exemptions.
- To adhere to government policy of not "gold plating" EU legislation, particularly where not making full use of a derogations would result in costs.

5. DESCRIPTION OF OPTIONS CONSIDERED

Three policy options have been considered in this impact assessment. These options will be explored during the consultation to gather more detailed information and evidence on the costs and benefits of either maintaining or removing exemptions.

5.1. Policy Option 1 - Do nothing – retain current exemptions

To retain all the domestic exemptions for the remainder of the exemption period, until 2019. This option will form our baseline against which all the costs and benefits of the other options will be compared.

5.2. Policy Option 2 – The preferred option

To remove exemptions if their removal will impose no additional cost on the industry. Lack of additional costs is due to compliance with existing domestic, legal requirements or best practice and other European legislation. Passengers are already receiving the intended PRO benefits through that existing compliance. This option also maintains exemptions if their expiry would otherwise impose costs on the industry.

After initial engagement with key stakeholders, such as the Association of Train Operating Companies, the Office of Rail Regulation, Passenger Focus, London Travelwatch, and the devolved administrations, we believe that there is potential to remove the exemptions for the articles listed below. TOCs (and independent ticket vendors and tour operators for some articles) will no longer be exempt from the PRO for these articles. Our initial assessment, subject to consultation, suggests these Articles are:

- Article 5 – Bicycles on trains.
- Article 6 – Exclusion of waiver and stipulation of limits.
- Article 7 – Public information regarding discontinuation of services.
- Article 8 - Travel Information.
- Article 10 – Travel information and reservations systems.
- Article 14 – Contestation of liability.
- Article 18(1), (4) &(5) – Assistance
- Article 20 (2) - Information for disabled passengers and passengers with reduced mobility.
- Article 21 - accessibility.
- Article 22 (1) and 22 (2) - assistance for disabled passengers and passengers with reduced mobility at stations.
- Article 23 – Assistance on board.
- Article 24 (b), (c) and (e) – Conditions on which assistance is provided.
- Article 25 – Compensation in respect of mobility or other specific equipment.
- Article 27– Complaints.

For the remaining 'non-core' articles not listed above we are proposing to maintain the exemptions.

5.3. Policy Option 3

To remove the exemptions from the 'non-core' articles of the PRO, where there may be costs, but such costs are outweighed by benefits to passengers. This will include all the articles listed in Option 2 (Section 5.2) and any other, articles where the passenger benefits justify incurring additional costs over the current 5 year derogation period. Therefore, there is the possibility that we remove exemptions for all the 'non-core' articles.

The extent of the costs and benefits of this option will be determined through evidence gathered during the consultation. However, the intention would be to maintain the exemption for the 'non-

core' articles listed below where the costs of complying with the article outweigh the benefits. Other factors affecting final decisions could include affordability and timeliness.

- Article 4- Transport Contract.
- Article 13 – Advance payments of compensation to those injured or the dependants of those killed in an accident.
- Article 15 – Liability for delays, missed connections and cancellations.
- Article 16 – Reimbursement and re-routing in the event of delays.
- Article 17 – Compensation of the ticket price.
- Article 18 (2) and (3) – Assistance.
- Article 22 (3) - Assistance at railway stations
- Article 24 (a) and (d)– Conditions on which assistance is provided
- Article 28 – Service quality standards
- Article 29 – Information to passengers about their rights

6. COSTS AND BENEFITS OF THE AVAILABLE OPTIONS:

For the purposes of this impact assessment, the costs and benefits of the different options have been assessed to the extent that it is possible. However, given the limitations of the available evidence base, it has not been possible to fully provide new estimates of the costs and benefits of complying with the 'non-core' elements of the regulation.

Therefore, we have had to rely heavily on estimates of the costs of implementing the 'non-core' elements of the PRO provided by the Association of Train Operating Companies (ATOC) during the 2009 consultation.

6.1. Stakeholder evidence gathering exercise

The Department for Transport carried out a pre-consultation evidence gathering exercise earlier in the year, including meeting with some stakeholders, in an attempt to gather a broad understanding of where costs might have changed since 2009. This has not produced detailed new information on costs however.

As this is a consultation stage IA, we are requesting evidence of costs and benefits in the consultation, which will help to monetise the impacts. We have also requested that, wherever possible, any evidence submitted is accompanied by the underlying data and analysis behind the calculations as well as any key assumptions.

Where it has not been possible to monetise a cost or benefit, a qualitative description of the cost or benefit has been provided to the extent that it is possible at this time. The consultation will also be useful in confirming our initial qualitative assessments.

The counterfactual (do-nothing) should include current industry practice, requirements and liabilities. Only the marginal cost /benefit of removing the exemptions for specific articles should be accounted for in calculations of costs and benefits. It should also be made clear whether such costs are one-off or on a per annum basis.

In this impact assessment, where the magnitude of marginal costs/benefits are described, the following terms should be used as a guide:

- No / zero – costs/benefits equal to zero
- Negligible - costs/benefits close to or equal to zero
- Small - costs/benefits less than £5m per annum

- Medium - costs/benefits between £5m and £30m per annum
- Large - costs/benefits over £30m per annum

Where the magnitude of costs/benefits has not been mentioned, it is because we have insufficient evidence to comment at this stage, but hope to do so after we have received additional evidence from the consultation.

It should be noted that there is considerable uncertainty regarding the cost evidence base for the 'non-core' elements of the PRO regulations, which highlights the different positions of various stakeholders submitting this evidence.

6.2 Costs and benefits of Option 2

6.2.1. Costs of option 2

The following section covers each of the 'non-core' articles of the PRO that TOCs (and others in some cases), would no longer be exempt from under Option 2. This section also explains why we believe there are no additional costs attached to the proposed removal of these exemptions.

Consultees are invited to offer evidence on whether the removal of the exemptions would result in any additional costs to the GB Rail industry and/or any additional benefits to passengers.

6.2.1.1. Additional cost of Article 5 - Bicycles on trains

This article requires that railway undertakings must allow passengers to bring bicycles on trains – but only if this does not adversely affect the rail service and if the rolling-stock permits this. A charge may be made for carrying the bicycle.

Compliance with this Article will impose **no additional cost** to TOCs, as they already meet the PRO standard in practice through compliance with the National Rail Conditions of Carriage (NRCoC)⁴. Condition 48 satisfies this PRO requirement, as it requires that train companies allow bicycles to be conveyed by train with the exception of a few routes.

Similarly to the PRO, Condition 48 allows some restrictions to be applied at particular times of day/and or days of the week. Under Condition 48, a charge may also be made for conveying a bicycle and a reservation may be required.

All the respondents to the initial stakeholder evidence gathering exercise agreed that the exemption for this Article could be removed and there are no marginal cost implications.

6.2.1.2. Additional cost of Article 6 - Exclusion of waiver and stipulation of limits

This article states that obligations under the PRO cannot be limited by the transport contract (i.e. the NRCoC) with the passenger. However, railway undertakings can offer more favourable contract conditions to the passenger than the minimum required by the PRO.

The NRCoC are the contract that rail passengers enter into when they purchase a ticket to travel on scheduled services on the National Rail Network. Therefore, the NRCoC must meet the minimum standards in the PRO, unless there is a specific domestic exemption in place. This ensures that, as a minimum, passengers benefit from the rights of the PRO and this needs to be clearly documented.

⁴ The NRCoC sets out the main duties of train companies to passengers (including those stemming from existing legislation) and the responsibilities of the passenger in return. The NRCoC apply to all domestic (non-international) journeys by scheduled passenger trains of the train companies on the national rail network <http://www.nationalrail.co.uk/static/documents/content/NRCOC.pdf>

The NRCoC are already updated periodically to reflect changes e.g. new industry practices or new regulatory requirements. The administration of amendments to the NRCoC therefore already form part of normal industry costs. It should not therefore be burdensome to require the NRCoC to be updated to reflect any subsequent removal of PRO exemptions.

Now that the NRCoC exists as an online document, and is not routinely printed, any costs will be limited to administrative tasks of drafting and approving the required amendments and of updating the relevant webpages (which would only occur infrequently as a result of changes to PRO exemptions). These cost could be reduced further if planned industry changes to the NRCoC could be undertaken at the same time.

As the rail industry is already required to meet the minimum standards in the PRO (subject to any domestic exemptions granted under Article 2), there appear to be no reasons for retaining this exemption, and **negligible additional cost** implications of removing it.

All of the respondents to the initial stakeholder evidence gathering exercise agreed that this exemption could be removed.

6.2.1.3. Additional cost of Article 7 - Obligation to provide information concerning discontinuation of services

This Article requires that advance notice must be given by railway undertakings to passengers regarding the discontinuance of services.

Requirements already exist to inform passengers of any discontinuation of services, one of which is Part 4 of the Railways Act 2005 (the "Act") that mandates closure processes. Timetabling provisions in licences also require operators to participate in the timetabling process so that Network Rail can publish any changes. Under existing franchise obligations there is a requirement to provide timely information to passengers, and under new franchises there exists a requirement to consult with passengers on material changes.

Therefore, removal of the exemption for this article will impose **no additional cost** to TOCs, as they already comply with it due to existing obligations under the Act and franchise agreements.

All the respondents to the stakeholder evidence gathering exercise agreed that this exemption could be removed.

6.2.1.4. Additional cost of Article 8- Travel information

Article 8(1) requires train operators and ticket vendors working on their behalf to provide specific pre-journey information to passengers upon request. The specified information includes time schedules and conditions for the fastest trip. Ticket vendors working on their own account and tour operators must provide the same information where available.

We believe that this requirement is already being satisfied through the NRCoC, which sets out the information that must be provided to passengers by train companies and ticket sellers. We believe this meets all of the PRO requirements on pre- journey information. National Rail Enquiries, Passenger's Charters, and train operator websites also provide further information in a number of these areas.

Therefore, for train operators and ticket sellers **no additional costs** should arise as a result of removing the exemption. However, **we are seeking views in particular on the application of this Article to independent ticket vendors and tour operators.**

Article 8(2) requires railway undertakings to provide the following information during the journey:

- On-board services;

- Next station;
- Delays;
- Main connecting services; and
- Security and safety issues.

Under the NRCoC, train companies must keep passengers informed during the journey about on-board services, station calling points and any delays that may affect their journey. This information is generally provided through Passenger Information Systems (PIS) or otherwise provided verbally by train staff.

There are many audio visual PIS systems already in place to comply with requirements under Rail Vehicle Accessibility Regulations (RVAR) and the Technical Specification for Interoperability for Persons of Reduced Mobility (PRM TSI). Though this legislation is aimed at DPRMs, the on-board information requirements and mechanisms for delivering this mean that TOCs are also meeting article 8 journey information requirements.

The ATOC Good Practice Guides for Customer Information also provides best practice on the provision of customer information during the journey which is aligned with PRO requirements.

Operators are already required to make announcements to inform passengers of the need to be vigilant about security matters affecting trains and stations.

We believe that operators who are following the NRCoC and industry best practice and guidance meet the requirements of 8(2) Therefore, for train operators and ticket sellers **no additional costs** should arise as a result of removing the exemption.

Article 8(3) requires that information provided before and during the journey shall be offered in the most appropriate format, particularly for those with auditory and visual impairment.

The Rail Vehicle Accessibility Regulations (RVAR) and the PRM TSI require that messages shown on trains meet an appropriate standard and that auditory messages are of a suitable volume. Train companies are also required by the NRCoC to provide information wherever possible in a way which people with sight and/or hearing difficulties can understand. Therefore, **no additional costs** should arise as a result of removing the exemption.

The respondents to the evidence gathering exercise agreed that **no additional costs** should accrue from the removal of this exemption.

6.2.1.5. Additional cost of Article 10 – Travel information and reservations systems

Article 10(1) to (4) mandate the use of a Computerised Information and Reservation System for Rail Transport (CIRSRT) and establish rules concerning its implementation. The technical specifications for interoperability (TSI) referred to in Directive 2008/57/EC apply.

The measures currently being undertaken by industry to implement the TAP TSI Regulation (Commission Regulation (EU) No 454/2011 as amended) meet the requirement in Article 10 for railway undertakings to adapt their CIRSRT in accordance with the deployment plan in that TSI.

Removing the exemption for Article 10 will lead to **no additional cost** to industry as the cost of adapting CIRSRT systems stems from the TAP TSI Regulation rather than the PRO.

Article 10(5) requires train operators and ticket vendors to comply with Directive 95/46/EC⁵ as amended, when disclosing personal information on individual bookings to other railway

⁵ Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data.

undertakings and/or ticket vendors. Industry should already be compliant with Directive 95/46/EC and therefore **no additional cost** should accrue from removing this exemption.

6.2.1.6. Additional cost of Article 14 - Assistance in seeking compensation from third parties when a railway undertaking contests its own liability for an accident

This Article requires that where a railway undertaking contests its own liability for an accident, it must nevertheless make every effort to assist a passenger in making a claim for compensation from third parties.

Article 14 is in line with current GB practice under the Claims Allocation and Handling Agreement (CAHA). Therefore, the rail industry is already complying with Article 14. As a result, the removal of the exemption will impose **no additional cost** to industry.

All the respondents to the stakeholder evidence gathering exercise agreed that this exemption could be removed and **no additional costs** were identified.

6.2.1.7. Additional cost of Article 18(1), (4) & (5) - Assistance

Article 18(1) requires that railway undertakings must keep passengers informed of the situation when trains are subject to delayed departures and delays during the journey.

This requirement is already met through industry compliance with an Approved Code of Practice (ACoP) on passenger information during disruption (PIDD). The ORR has made compliance with the ACoP an enforceable Operator Licence condition. As a result of the existing requirements, we believe that there should be **no additional cost** if the exemption for this part of the Article was removed.

Article 18(4) requires that where there is disruption, the railway undertaking shall certify this on the ticket when requested by the passenger.

ATOC commented in the evidence gathering exercise that this requirement could impact on assisting passengers in other ways during disruption, rather than increase cost (though in extremis standby staff could be required).

As noted for Article 4, existing industry systems are in place to record delays. Certification of tickets under this Article is at the request of the passenger and therefore the requirement to do so is unlikely to be widespread or burdensome. Therefore, the Department believe that any additional costs to industry as a result of removing this exemption, are expected to be **negligible**.

Article 18(5) states that when discharging Article 18 duties, the railway undertaking shall pay particular attention to the needs of DPRMs. Railway undertakings are already subject to existing rail industry obligations such as Disabled People's Protection Policies ("DPPPs") and the wider responsibilities to not discriminate when providing services under the Equality Act 2010. Therefore, there should be **no additional cost** if the exemption for this part of the article was removed.

6.2.1.8. Additional cost of Article 20 (2) - Information for disabled passengers and passengers with reduced mobility (DPRMs)

This requires, where requested, the train operator, ticket vendor, or tour operator to notify the DPRM within 5 days of the reason they have been refused a ticket, reservation, or are required to be accompanied.

ATOC commented in the informal evidence gathering exercise that the removal of this exemption would result in minimal extra requirements resulting in a small cost, however they were unable to monetise this impact.

The Department agrees that there will be a minimal extra requirement but considers that the additional costs associated with the requirement will be negligible. The existing legislation and licence condition requirements to have a DPPP and a complaints handling procedure would likely only require minor adjustment and prioritisation of DPRM requests to meet the additional requirement to respond within 5 days. The existing requirements are as follows:

- Existing domestic equality legislation (Equality Act 2010) requires that service providers (including station and passenger train operators, independent ticket vendors and tour operators) must not discriminate against disabled people;
- In addition station and passenger train operators are required under their licence conditions to establish and maintain a DPPP. Amongst other things DPPP guidance requires operators to provide assistance, where reasonably practicable, to DPRMs who arrive at a station and require assistance to allow them to travel, but assistance has not been arranged in advance;
- DPPP guidance also notes that operators would be expected to provide clear and reasonable justification to passengers where assistance cannot be provided for any reason;
- Where, for safety reasons, a DPRM may not be permitted to travel, DPPPs require operators' policies to be made clear in the published DPPP, including the reasoning;
- Train operators are also required under their licence conditions to have appropriate Complaints Handling Procedures (CHPs) in place to deal with all customer complaints in a timely manner;

Given the existing requirements not to discriminate against disabled passengers and to make reasonable adjustments, we expect the requirements of Article 20 (2) to apply only in limited or specific circumstances. As a result, any additional compliance costs to industry should be **negligible**.

6.2.1.9. Additional cost of Article 21 - accessibility of stations and rolling stock

Article 21(1) requires that railway undertakings and station managers must ensure that stations, platforms, rolling stock, and other facilities are accessible to DPRMs through compliance with the Technical Standard of Interoperability for Persons with Reduced Mobility (PRM TSI).

Great Britain's rolling stock and stations on mainline railways are already compliant with the PRM TSI. A new version of the PRM TSI will also apply to the whole heavy rail network from January 2015.

Article 21(2) requires that in the absence of accompanying on-train staff or staff at a station, railway undertakings and station operators shall make all reasonable efforts to enable DPRMs to travel by rail.

Railway undertakings and stations managers are already required to make all reasonable efforts to enable DPRMs to travel by rail through a combination of DPPPs, section 29 of the Equality Act and Article 19 (a core article already in force) of the PRO.

The provisions of this Article are being met through existing arrangements, therefore there would **no additional costs** as a result of removing the existing exemption. ATOC also commented in the informal evidence gathering exercise that removing the exemption would have no incremental cost impact.

6.2.1.10. Additional cost of Article 22 (1) and (2) - assistance for disabled passengers and passengers with reduced mobility at stations

Article 22(1) requires that at staffed stations the station manager shall provide assistance with boarding or alighting trains for DPRMs. This assistance shall be provided free of charge.

Providing such assistance free of charge is an existing principle in domestic equality legislation. We therefore believe that this PRO requirement is already met and should impose **no additional costs** on industry if it is removed.

ATOC commented in the evidence gathering exercise that the removal of this exemption would have **no incremental cost** impact.

Through Article 22 (2), Member States may provide a derogation from 22(1) for services provided under public service contract, provided that alternative facilities or arrangements guaranteeing an equivalent or higher level of accessibility of transport services are in place. Franchise operators (i.e. those falling within the scope of Article 22(2)) already meet the requirements of Article 22(1) and we can envisage no circumstances where a derogation is needed.

6.2.1.11. Additional cost of Article 23 – Assistance on board

This requires Railway Undertakings to make reasonable efforts to provide on-board assistance to DPRMs (free of charge) to enable them to have access to the same services on the train as other passengers.

The Equality Act 2010⁶ protects disabled rail passengers against disability discrimination, including during provision of service. The Act details the application of duty to make reasonable adjustments to transport providers (including rail), so that disabled people can use their services.

The RVAR and PRM TSI rail accessibility regimes impose specific requirements regarding physical accessibility on board a train. Train operators are also required to assist DPRMs to board or alight a train and DPPP guidance also highlights the provision of on-board services such as staff assisting with luggage where assistance has been booked in advance.

Due to the existing sector-specific legislation and the Equality Act duties in GB, we believe there would be **no additional costs** for train companies if the current exemption was removed. As part of the evidence gathering, ATOC agreed that removing the exemption would have no incremental cost impact as TOCs are already compliant.

6.2.1.12. Additional cost of Article 24 (b), (c) and (e) – conditions on which assistance is provided.

Article 24 (b) - This requires that railway undertakings, station managers, ticket vendors, and tour operators shall take all measures necessary for the reception of notifications for assistance to travel.

The current "Passenger Assist" system provided by train companies, highlighted on the National Rail Enquiries website and TOC's own websites, provides a single contact point for passengers to state their assistance needs prior to travelling on the rail network.

The respondents to the evidence gathering exercise agree that this part of Article 24 is satisfied and there would be **no additional cost** to the rail industry if the exemption was removed. We will confirm the position for tour operators and other ticket vendors via the formal consultation.

⁶ Section 29 & Schedule 2

Article 24 (c) - This requires that if no notification is made in accordance with point (a)⁷, the railway undertaking and the station manager shall make all reasonable efforts to provide assistance for the DPRM to travel.

Station Managers and train operators are expected under their DPPPs to provide assistance to DPRMs who arrive at a station and require assistance to travel but where assistance has not been arranged in advance, where reasonably practicable. This is equivalent to the requirement in the PRO "to make all reasonable efforts" to provide assistance if no advance notification is provided in accordance with Article 24(a). Therefore removing this exemption will impose **no additional cost** to industry.

ATOC commented in the evidence gathering exercise that removing the exemption would have no incremental cost impact as TOCs are already compliant.

Article 24 (e) - This requires that, as a condition for provision of assistance, DPRMs must present themselves at a designated point at a stipulated time (not more than 60 minutes before travel).

Rail industry practice currently exceeds this with a recommendation of arriving 20 minutes in advance for long journeys if using a large station, or 10 minutes at a smaller station. On this basis, we believe that domestic practice satisfies the PRO and removing the exemption should result in **no additional cost** for industry.

ATOC commented in the evidence gathering exercise that removing the exemption would have no incremental cost impact as TOCs are already compliant.

6.2.1.13. Additional cost of Article 25 - Compensation in respect of mobility or other specific equipment – removal of any limits on liability

Article 25 requires that where a railway undertaking is liable for loss of, or damage to, mobility or other specific equipment for DPRMs, there is no financial limit on the compensation payable in respect of that loss or damage. This means that the limits on a carrier's liability for lost or damaged luggage in CIV (Contract for International Carriage of Passengers and Luggage by Rail)⁸ do not apply to DPRMs' equipment.

A DPRM would be able to bring a disability discrimination claim under the Equality Act 2010 if they were not fully compensated for loss of, or damage to, their equipment for which a train operator was responsible. They would also be able to claim compensation for injury to feelings. However, Condition 50 of the NRCoC would need to be amended, as it currently states that a Train Company's liability in respect of any item will not exceed the limit laid down in the PRO or the item's value, whichever is lower.

Given the existing remedies available under the Equality Act 2010, there would be **no additional cost** burden on train companies if the current exemption was removed.

6.2.1.14. Additional cost of Article 27 - Complaints Handling

Article 27 (1) - This article requires railway undertakings to set up a complaint handling mechanism for rights and obligations covered by the PRO. It also requires them to publicise the relevant contact details.

Current domestic requirements oblige all train operators, as part of their operator licences, to have Complaints Handling Procedures (CHP) in place. This requirement is enforceable by the ORR and there is guidance on the principles of what CHPs should contain. We believe that 27(1) is

⁷ Point (a) - This imposes a duty on railway undertakings, station managers, ticket vendors and train operators to co-operate to provide assistance. Passengers needing assistance may be required to give at least 48 hours' notice of their need for assistance.

⁸ CIV- an international agreement known, which itself contains 20 Articles.

satisfied by the CHP process and therefore removing this exemption will impose **no additional cost** to industry.

All the respondents to the stakeholder evidence gathering exercise agreed that this exemption should be removed. No additional costs were identified and respondents highlighted that an improvement in the complaint handling process was welcome.

Article 27 (2) - This requires that operators shall respond to complaints within one month – though there is some scope for holding replies should there be good reasons why a response cannot be provided within 1 month. In that case the deadline can be extended to three months from the date of the complaint.

Under CHP processes operators must set out defined targets for complaint response times. All operators are expected to provide a full response to at least 95% of written complaints within 20 working days. Where they cannot be answered fully within the agreed timescales, operators are required to provide regular updates to the complainants every ten working days after the target response time.

In this way, we consider that domestic CHP requirements are aligned with PRO standards and train operators would only need to make some minimal adjustments to their existing complaints processes in order to achieve a one hundred percent response rate within a month, subject to the PRO fall back of three months, to respond in justified cases. Train operators already have an average response rate of 93% within 20 working days⁹. Therefore, the Department believe that any additional costs to industry as a result of removing this exemption, **are expected to be negligible**.

Most of the respondents to the informal evidence gathering exercise felt that this exemption should be removed. ATOC noted that to meet the requirements some TOCs would need to adjust processes that could result in a minimal amount of additional cost but saw customer service benefits in aligning complaints handling. However no cost estimates were provided.

Article 27 (3) – This article requires Railway Undertakings to publish in their annual reports (see Article 28) the number and categories of received complaints, processed complaints, response times, and possible improvement actions undertaken.

As noted under 27(1), Train Operators are required to have a complaints handling processes (CHPs) in place as part of their Operators Licence. CHPs require that a process is in place to report on the volume and type of complaints, the level of performance achieved in responding to complaints, the handling of complaints, and the way in which operators have made improvements to services in response to customer feedback.

We believe that these existing requirements mean that train operators already record the data necessary to satisfy Article 27(3) at **no additional cost to industry** and much of this is already published on the ORR website. Responses to the evidence gathering agreed that there is no material cost if this exemption was removed.

6.2.1.15. Additional cost of all remaining non-core articles

Train Operating Companies, (and where relevant ticket vendors, station managers and tour operators), will continue to be exempt from all the remaining non-core articles. As these exemptions will be maintained, there will be no extra requirements and therefore **no additional cost** to industry.

6.2.1.16. Overall Costs under Option 2

⁹ 2012/13 figures: <http://dataportal.orr.gov.uk/displayreport/report/html/20ad3a54-bb76-47cd-83d6-650155519014>

The Department considers that not renewing exemptions for the Articles referred to in section 5.2 will impose zero or negligible additional cost to industry. The overall cost of option 2 is negligible approaching zero. The cost of Option 2 are therefore represented as zero on the summary sheet and throughout the IA.

Below is a table summarising Option 2 and the reasons for the lack of additional costs (zero/negligible) as a result of removing exemptions. The list of acronyms can be found at the start of the IA.

Article	Reason for lack of additional costs (zero/negligible)from the PRO
5	Covered by NRCoC
6	Covered by NRCoC
7	Covered by Railways Act 2005 and franchise agreements
8	Covered by NRCoC, RVAR and PRM TSI
10 (1-4)	Covered by the implementation of TAP TSI
10 (5)	Covered by existing EU and domestic protection legislation
14	Covered by CAHA
18 (1)	Covered by ACoP
18 (4)	Covered by existing industry systems and current practice
18 (5)	Covered by DPPP, Equality Act 2010
20 (2)	Covered by DPPP, Equality Act 2010 and CHPs
21 (1)	Covered by PRM TSI
21 (2)	Covered by DPPP and Equality Act 2010
22 (1)	Covered by Equality Act 2010
22 (2)	Covered by Equality Act 2010
23	Covered by Equality Act 2010, RVAR, PRM TSI and DPPP
24 (b)	Covered by Passenger Assist System
24 (c)	Covered by DPPP
24 (e)	Covered by DPPP
25	Covered by Equality Act 2010
27	Covered by CHPs

6.2.2. Benefits of option 2

Option 2 does not present significant additional benefits for passengers. This is due to the fact that passengers are already benefitting from existing measures in domestic regulation and current industry practice that broadly meets the intentions of the PRO in these areas.

The key non-monetised benefits include better alignment of domestic and European legislation with no or negligible additional cost to business. Better alignment of regulation provides clarity to both industry and passengers about their rights and obligations. This in turn will facilitate enforcement by the ORR under the railways licensing regime.

The Option 2 approach also balances a progressive approach to implementation of the PRO with the Government's commitment to not put UK businesses at a competitive disadvantage by not making full use of available derogations that would result in cost savings to industry. Under this option the Department is only proposing remove an exemption where there would be zero or negligible costs. We believe this represents a proportionate approach to improving passenger rights while seeking to minimise costs and burdens on business.

Consultees are invited to submit any additional evidence on these benefits during the public consultation.

6.3 Costs and benefits of Option 3

6.3.1. Costs of Option 3

The cost of Option 3 will be the cost of Option 2 (zero) plus the cost of removing any exemption for an article where the benefits to passengers would outweigh the cost to industry.

The extent of these costs and benefits will be fully determined through evidence gathered during the consultation. The articles listed under Option 3 are therefore, at this stage, those we understand are likely to have costs but which are largely unquantified. Similarly, the benefits are largely unquantified and unqualified at this time.

We are asking consultees to submit evidence to quantify costs and benefits of not renewing the exemptions for the remaining 'non-core' articles analysed in Option 3

Option 3 means that in addition to the articles listed in Option 2, TOCs (and others in some cases) could potentially also no longer be exempt from the following articles:

6.3.1.1. Additional cost of Article 4 – Transport Contract

Article 4 concerns the terms of the transport contract between Railway Undertakings and passengers and the provision of travel information and tickets. Subject to more detailed rules in the PRO itself, the transport contract and provision of information and tickets is governed by an international agreement known as CIV, which itself contains 20 Articles. The majority of these are already reflected in the NRCoC. However we have identified three areas of CIV which go beyond the NRCoC:

- CIV 7,(2)(a) "the carrier or carriers must be entered on the ticket",
- CIV 7,(4) "The ticket shall be transferable if it has not been made out in the passenger's name and if the journey has not begun" ;
- CIV 11 "The carrier must, where necessary, certify on the ticket that the train has been cancelled or the connection missed."

CIV 7, (2) (a)

This requires Railway Undertakings to enter the "carrier, or carriers" on the ticket and this goes beyond current industry practice.

Existing industry practice means that this already happens when passengers are restricted to a particular operator or route due to the terms of the ticket purchased, for example a passenger benefiting from a cheaper advance ticket, then industry practice is generally to include details of the specific carrier.

However, full compliance would be likely to require changes to industry ticketing systems to meet the requirement for all tickets to include carrier details. This would be likely to result in some potential costs. Currently we have been unable to monetise this additional requirement and stakeholders have also been unable to provide any cost estimates at this stage. We hope to receive some more evidence from the consultation. As an example, information on the likely changes required to the ticketing systems and the additional costs associated would be helpful in quantifying the additional requirements of CIV 7 (2) (a).

CIV 7, (4)

This allows a passenger who has purchased a ticket that has not been made out in their name to transfer (sell/offer) the ticket to another traveller if they are unable to use it. This is different to current industry practice as the NRCoC currently prevents the purchaser of a ticket from reselling or transferring that ticket for value unless permitted by the terms and conditions which apply to that ticket.

Such a change to requirements will lead to cost for industry and ATOC estimate that non-exemption of this element of the regulation will cost the rail industry between £9.25m and £37m per year in today's prices. The ATOC estimate includes:

- The loss from shared use of Off-peak returns (£19m):

They estimate that the approximate revenue from Off-peak returns (formerly cheap day returns) is £1.89 billion for the 12 months of most recently available data. As a worst case scenario it is assumed that 1% of this revenue will be lost due to transferability. Therefore the loss is estimated to be: £1.89bn x 1% = £19m

- The loss from resale of Advance fares (£18m):

The total revenue from Advance fares is £1,203m for the 12 months of most recently available data. This assumed that 1% of these are resold in place of more expensive products which would otherwise have been purchased nearer the time, and that the alternative fares would cost approximately 50% more. Therefore the loss is estimated to be £1,203m (revenue from Advance fares) x 0.01 (% resold) x 1.5 (alternative fares cost) = £18m.

High estimate= £19m + £18m = £37m.

The low estimate is calculated as 25% of the high estimate.

DfT agrees that there are some cost implications from not renewing this exemption, in particular the commercialisation or professional resale of Advance fares or off peak returns. However, we believe that the cost is potentially lower than the current estimates and there are other factors that need to be taken into account such as current liabilities from transferability. The extent to which the current prohibition can be enforced when the ticket has not been made out in the purchaser's name is unclear. Therefore the impact that current levels of prohibited ticket transfers have on revenue is uncertain. Such current liabilities need to be discounted from the estimate in order to calculate the true cost attributable to the PRO.

Future ticketing developments, such as a wider rollout of smart ticketing, also have potential to change the impact and costs in this area. We would welcome the views of consultees on this.

The Department is not currently confident in the cost estimates provided and will wait for further clarification from industry on how some assumptions were arrived at (i.e. 1% of revenue will be lost due to transferability and alternative fares would cost 50% more). These cost estimates are also based on analysis conducted in 2009 and over the last 5 years there may have been changes which would alter this cost estimate. Industry have informed the Department that they will look to explore the assumptions that are currently being used before providing revised cost estimates during the consultation.

For these reasons the estimates provided by ATOC have not been included in the summary sheet of this impact assessment.

CIV 11

This ensures that passengers will have cancellations or missed connections officially recorded in order to travel on later, non-reserved services or to assist with compensation claims and refunds.

Train operators already have information systems that allow staff to identify, without the need for a certified ticket, where there have been disruptions, cancellations or delays to a passenger's journey. This means that train operators are already able to help with the rescheduling of journeys, complaints, or claims for compensation. With these systems in place we do not believe that CIV Article 11 would impose any extra burdens on train operators given that they are only required to certify tickets "where necessary".

The existing systems provide passengers with the full protection that the CIV article envisages while potentially avoiding an additional burden on staff which could distract them from other priority tasks at times of major delay and impact on customer services more generally. ATOC has confirmed that these systems are in place and did not quantify any further costs arising from this requirement.

Conclusion Article 4 costs

The Department has advised ATOC of the other factors we believe need to be taken into account in any revised cost estimate, and have asked for further explanation of some of the underlying assumptions used in their calculations.

Other stakeholders who responded to the evidence gathering exercise indicated a preference to remove exemptions for this article, though some recognised the cost implications of any commercialisation of ticket transferability.

However, due to the limited evidence base we have been unable to monetise the additional requirements of Article 4 with certainty. The consultation will help determine the additional cost for industry of complying with this article and we hope to use the additional evidence provided to provide a cost estimate of our own that would need to be balanced against any passenger benefits.

Consultees are invited to offer evidence on whether the removal of this exemption would result in any additional costs to the GB Rail industry. As an example, evidence on the costs of ticket transferability (in particular the percentage of lost revenue) and the changes needed to the ticketing systems would help the Department monetise the additional requirements of Article 4. Any cost estimate would need to discount current liabilities.

6.3.1.2. Additional benefits of Article 4 – Transport Contract

Requirement to enter the “carrier, or carriers” on the ticket.

For some passengers this information will provide additional detail and clarity of information about which operator they are travelling with, particularly at stations where multiple train companies operate. This could provide passengers with additional confidence to travel, improve their travel experience, or potentially encourage some passengers to make additional journeys.

Where there are restrictions on the operator that can be used, this information could assist the passenger to board the correct train for which their ticket is valid. This could reduce the incidence of passengers receiving penalty fares or being required to pay an excess fare or buy a new ticket if they have boarded the train of a different operator. Inclusion of carrier information could potentially prevent this leading to higher levels of customer satisfaction with rail travel.

Inclusion of carrier information could also assist passengers in directing any complaints or claims to the relevant train operator, if they were unaware of who they were travelling with. Higher levels of complaints or claims that are acted upon could potentially lead to enhanced levels of customer service being provided in future.

The additional benefits are however limited to circumstances where this information is not already provided. In practice, many advance tickets and tickets with operator or route restrictions already display this information on the ticket, or as part of the booking process. The rail industry would have to carefully consider how to integrate this new requirement with the existing benefit of inter-available tickets on some routes (where any operator can be used) in order to avoid any confusion for passengers.

Requirement for ticket transferability.

This is limited to ticket types not made out in the name of the passenger, which excludes season tickets. The benefits would apply to passengers who have purchased a ticket but find they cannot/do not want to use it. In this case, transferability of tickets would allow them to re-sell the ticket to recoup the purchase price or pass the ticket to another person for them to benefit.

This is an additional benefit over current arrangements for unused Anytime and Off-Peak tickets. These tickets can currently be refunded, less an administration charge, which will not be more than £10. Whilst there are no refunds on Advance tickets, in most cases you can change your journey prior to travel (up to departure) for a £10 fee plus any difference in the fare payable. This gives passengers more choice about what to do when they cannot use a ticket and this additional flexibility could improve passenger satisfaction with ticket purchases. It also reduces the cost for those passengers who would otherwise have paid an admin fee.

Requirement for ticket certification.

This will provide passengers with additional reassurance that they have a proof of any disruption or delay, where they need to travel on a later non-reserved service, or to assist with claims and refunds. This could encourage more passengers to claim compensation or refunds and potentially lead to increased satisfaction with rail travel and value for money

However, this is potentially only a marginal benefit for those who value such incidents being documented at source. Such certification is not strictly necessary, as management information systems are currently employed by Railway Undertakings to identify disruption during and post event without the need for passengers to have a certified ticket. Therefore, we would expect the additional benefit to be negligible.

Due to the limited evidence base, we have been unable to monetise the above benefits for Article 4.

Consultees are invited to comment and submit evidence on the additional benefits from potential removal of this exemption.

6.3.1.3. Additional costs of Article 13 – Advance payments of compensation to those injured or the dependants of those killed in an accident.

This Article mandates the provision of immediate and proportionate financial assistance by railway undertakings in the event of an accident (where passengers are killed or injured). This is envisaged to cover short-term needs, even though liability has yet to be determined. The Article sets a minimum limit of Euro 21,000 in the event of a death. The status and liabilities arising from such a payment, including subsequent award, can be reduced by the amount of the advance payment.

The rail industry's Claims Allocation and Handling Agreement (CAHA) allocates liability in respect of passengers and luggage. Train Operators are required as a licence condition to be a party to and comply with CAHA. Clause 12 of CAHA was amended in 2009 for better alignment with the requirements of Article 13 of the PRO. However, the requirement to make payments in advance could lead to some upfront cost for railway undertakings, which are not present under the CAHA.

The additional cost to TOCs resulting from compliance with this Article will be the loss in interest they could have earned from an investment for the period of time it takes to determine whether they were liable for the accident, and not the actual advance payment itself. Therefore, the requirement to make advance payment is likely to result in small marginal costs for industry related to tying up funds in these advance payments before liability is established.

For illustrative purposes, the Department have estimated that it will cost the industry between £283k and £744k in today's prices over a 10 year appraisal period, which translates to between **£33k and £86k equivalent annual cost.**

Calculations:

The average annual advance payment is estimated to be £1.7m and £4.4m. This is calculated by multiplying the average number of incidents by the assumed payment for each type of accident

as shown in the table below (Table 1). The number of accidents was averaged across 5 years (2008-2012), taken from the RSSB Annual safety performance report 2012/13¹⁰.

The business savings rate for the first year (2015) was assumed to be 0.87%. The interest rate for 2014 is the average between Barclay's Active Savers Account (0.38%)¹¹ and Santander's Business Instant Access account (0.75%)¹². The calculations assume that the business savings rate grows in line with the Bank of England base rate¹³, projecting the premium of the business saving account figure over the Bank of England base rate figure in the current year into the future (Table 2).

Type of accident	Average casualties p.a.	Assumed low payment (real £)	Assumed high payment (real £)	Low advance payment (First Year, £)	High advance payment (First Year, £)
Fatalities - Passenger	5	18,000	25,000	93,600	130,000
Major injuries (Hospital attendance for more than 24 hrs) - Passengers	257	2,000	5,000	513,200	1,283,000
Minor injuries Class 1 (Resulted in being injured taken to hospital)	1232	500	1,500	615,800	1,847,400
Minor injuries Class 2 (All other physical injuries)	4467	100	250	446,700	1,116,750
Total				1,669,300	4,377,150

Year	Bank Rate (OBR Fiscal Sustainability report July 2013)	Average Business Account Savings Interest rate
2014/15	0.50%	0.57%
2015/16	0.80%	0.87%

¹⁰ <http://www.rssb.co.uk/Library/risk-analysis-and-safety-reporting/2012-aspr-annual-safety-report.pdf>

¹¹ <http://www.barclays.co.uk/Businesssavingsaccounts/P1242558528771>

¹²

http://www.santander.co.uk/csqs/Satellite?c=Page&canal=CABBEYCOM&cid=1237907866456&empr=Abbeycom&leng=en_GB&pagename=Abbeycom%2FPage%2FWC_ACOM_TemplateA1

¹³ <http://budgetresponsibility.org.uk/pubs/Fiscal-sustainability-report-supplementary-tables-July-2013.xls>

2016/17	1.20%	1.27%
2017/18	1.90%	1.97%
2018/19	2.40%	2.47%
2019/20	2.80%	2.87%
2020/21	3.20%	3.27%
2021/22	3.40%	3.47%
2022/23	3.70%	3.77%
2023/24	4%	4.07%
2023/25	4.30%	4.37%

These rates are applied to the Advance payments for a duration of 9 months resulting in the annual cost of between £10,830 and £28,397 in today's prices. The present value of these costs over the next 10 year appraisal period can be seen in the table below (Table 3).

Year	Business Account Savings rate (annual)	Low estimate (Annual Interest rate x low total advance payment) * 9 months, £	High estimate (Annual Interest rate x high total advance payment) * 9 months, £	Low estimate (Discounted), £	High estimate (Discounted), £
2015	0.87%	10,830	28,397	10,463	27,436
2016	1.27%	15,837	41,528	14,784	38,767
2017	1.97%	24,601	64,508	22,189	58,183
2018	2.47%	30,861	80,923	26,894	70,519
2019	2.87%	35,869	94,054	30,201	79,191
2020	3.27%	40,877	107,185	33,253	87,195
2021	3.47%	43,381	113,751	34,097	89,407
2022	3.77%	47,137	123,600	35,796	93,863
2023	4.07%	50,893	133,448	37,342	97,915
2024	4.37%	54,649	143,297	38,741	101,586
Total		354,935	930,692		
PV Total (10 year appraisal)				283,761	744,064
Equivalent annual cost to business (EACB)				32,966	86,442

We consider our estimated additional cost (£33k-£86k (EACB)) to be negligible in the context of overall rail industry costs and revenues. However, these estimates are based on uncertain assumptions, and therefore have low assurance. As a result, the above estimates will not be included in the summary sheets for the purpose of the consultation-stage IA and is not included under Option 2 pending further clarification of costs/assumptions. The assumptions used are that:

- TOCs would have instead saved the money needed to cover the advance payment in a business savings account. However, this is a conservative assumption, as a more likely scenario would be that TOCs would invest their cash reserves at a higher rate of return.

- The business savings account interest rate grows in line with the Bank of England base rate projecting the absolute premium of the business saving account figure over the Bank of England base rate figure in the current year into the future.
- Assumed payments for each type of accident was taken from ATOC's calculations. ATOC had postulated some values to illustrate the magnitude of cost. We have used the same payments here, however these values remain uncertain.
- The length of time taken to determine liability for a rail accident is between 6 and 12 months. As there is no definite length of time to settle a claim, the average between 6 and 12 months has been used in the calculations (i.e. 9 months).

ATOC estimate that non-renewal of this exemption will cost the rail industry between £0.7m and £1.6m per year in today's prices. This estimate is based on an interpretation of requirements in Article 13 that differ from Department's interpretation. ATOC has calculated the advance payments based on RSSB statistics on the number of passenger fatalities and injuries. This cost estimate has not been included in the summary sheet, as it represents the totality of the advance payment itself, and not the additional cost of lost interest

Conclusion Article 13 costs

The Department hopes to receive additional evidence during the public consultation to build on the above analysis to arrive at a more robust cost estimate. However, for the time being, due to the limited evidence base, we have been unable to confidently monetise the additional requirements of Article 13.

Consultees are invited to offer evidence on whether the removal of this exemption would result in any additional costs to the GB Rail industry and/or any additional benefits to the passengers.

6.3.1.4. Additional benefits of Article 13 – Advance payments

The industry CAHA agreement already allocates liability in respect of such passengers' claims and operator may already be liable to make such awards in due course. However the additional benefits to the passengers or their estate derive from the requirement to make advance payments "without delay" (within 15 days).

The additional benefit to passengers is likely to be of similar magnitude to the additional cost to TOCs (interest rate for savings account is 0.5%¹⁴). Such payments could be of benefit to passengers (or their families) where injury or death leads to immediate costs, such as a reduction in income, alternative travel requirements, or medical costs. The benefit to passengers could also potentially be greater than the cost to TOCs of having to provide the advance payment, especially passengers with low savings and poor access to credit. This is because if these passengers did not receive the advance payment, they may have to borrow money to cover their immediate costs at a much higher rate.

Due to the limited evidence base, we have been unable to monetise the above benefits. To allow the Department to monetise the benefits we would need further evidence on:

- Time taken to determine liability for rail accidents;
- % of passengers involved in accidents with low/no savings that would be using credit (payday loans, credit card, personal loans etc.) to cover immediate costs ; and

¹⁴ Santander Instant Access, Everyday Saver account-
<http://www.santander-products.co.uk/savings/interestratefinder/>

- The appropriate average interest rate to use, given the huge spread in consumer interest rates (varies from very low interest rates for savings accounts to extremely high rates for payday loans).

Consultees are invited to comment and submit evidence on the additional benefits from potential removal of this exemption.

6.3.1.5. Additional cost of Article 15 - Liability for delays, missed connections and cancellations

Article 15¹⁵ provides that the carrier shall be liable to the passenger for the loss or damage resulting from the fact that the journey cannot be continued on the same day due to delays, missed connections, or cancellations. The damages shall comprise of the reasonable costs of accommodation and the reasonable cost occasioned by having to notify people expecting the passenger. UK law shall determine whether any further damages shall be due.

There are limitations to liability where the late running, cancellation, or missed connection is the result of:

- Circumstances not connected with the operation of the railway, which the carrier could not avoid having taken due care;
- Fault on the part of the passenger;
- Behaviour of a third party, which the carrier could not avoid having taken due care (another train company using the same track would not be treated as a third party for these purposes).

Under the NRCoC (Conditions 43), overnight accommodation must be provided, if it reasonably can be, to a passenger who is stranded as a result of circumstances within the control of the train company. NRCoC condition 45 sets out the circumstances that are not within a train company's control including:

- Vandalism;
- Suicides or accidents involving trespassers;
- Exceptionally severe weather conditions.

However, the exclusions from liability in the NRCoC go beyond those permitted under Article 32 of CIV, which depend on the TOC having taken due care. For example, if due care had not been taken to prevent an accident involving vandalism to a train the exemption in Article 32 CIV would not apply. In contrast under the NRCoC vandalism is one of the circumstances that is not considered to be within a train company's control and therefore passengers would not be entitled to reimbursement of the costs of accommodation under the NRCoC even if the train company had taken no steps to prevent the vandalism that led to the disruption.

Although the legal regimes are not fully aligned, it is likely in the normal course of business that train companies would take due care to avoid disruption in the circumstances referred to in Condition 45 and the NRCoC could be amended to reflect the due care requirement in the terms of the passenger contract.

It is likely that there is a cost to industry in ensuring full alignment between the legal regimes, though it is likely to be small considering that the costs would predominantly arise from the provision of overnight accommodation where a journey cannot be continued on the same day. Any estimate of such costs should take into account existing industry liabilities under condition 43 of the NRCoC - "Help from Train Companies if you are stranded".

¹⁵ Via Article 32 of CIV

Conclusion Article 15 costs

Article 15 provisions are not fully met through existing arrangements, therefore is likely to be a small additional cost to industry of complying. However, due to the limited evidence base, we have been unable to monetise the additional requirements of Article 15 at this time.

All the respondents to the stakeholder evidence gathering exercise had the view that this exemption should be removed and no additional costs were identified.

Consultees are invited to offer evidence on whether the removal of this exemption would result in any additional costs to the GB Rail industry and/or any additional benefits to passengers.

6.3.1.6. Additional benefits of Article 15 - Liability for delays, missed connections and cancellations

The additional liability carried by rail operators for delays missed connections and cancellations in all circumstances is likely to provide passengers with an additional degree of assurance and comfort when travelling. In the circumstances provided for by the PRO passengers can expect to receive the benefits of the reasonable costs of accommodation and the cost of notification of such delays to others. Passengers could be confident to seek out accommodation in the event of such disruption and know that they would not be out of pocket as a result.

Such reassurance could also lead to improved passenger perceptions and satisfaction with rail services and lead to additional journeys being made.

At present, according to the results of the National Passenger Survey, passengers are least satisfied with the way that train companies deal with delays. Therefore, any improvements in the way delays are dealt with results in potential passenger benefits. This is essentially a transfer of payment from Train Operating Companies (who meet the compliance costs) to the passengers (who benefit from improved passenger rights).

Nevertheless, the additional benefits only arises when a journey cannot be continued on the same day (i.e. infrequently) and when the cause of the delay is outside of industry control and they have not taken "due care". We believe the additional benefits are therefore likely to be small.

Due to the limited evidence base, we have been unable to monetise the above benefits.

Consultees are invited to comment and submit evidence on the additional benefits from potential removal of this exemption.

6.3.1.7. Additional costs of Article 16 – Reimbursement and re-routing in the event of delays

This Article requires that where a delay will lead to a late arrival of 60 minutes or more, passengers may choose:

- refund of the fare for the entire journey when the journey will no longer serve the passenger's originally planned purpose. The refund will include the return journey where appropriate;
- continuation or re-routeing under comparable transport conditions to the final destination at the earliest opportunity; or

- continuation or re-routing under comparable transport conditions to the final destination at a later date at the passenger's convenience.

Under PRO, train operators will be obliged to reimburse or re-route passengers even in situations outside of the rail industry's control.

The NRCoC currently provides passengers with some of the benefits required under Article 16. For example, under condition 26 of NRCoC if the train a passenger intends to use is cancelled, delayed, or the reservation cannot be honoured, and the ticket or relevant portion of it is completely unused then claims can be submitted for a refund. In some cases, passengers may have to pay an administrative charge not exceeding £10.

Condition 43 of NRCoC also envisages that for disruption caused by circumstances within the control of a train company that leave a passenger stranded before reaching their final ticket destination, any train company that is in a position to help will do so if it reasonably can arrange to get the passenger to that destination.

We expect that full compliance with Article 16 is likely to impose costs on industry including:

- Reimbursement of the full cost of the ticket - for parts of the journey already made where the journey is no longer serving the purpose of the passenger's original travel plan;
- Continuation or re-routing in all circumstances at the earliest opportunity or at a later date;
- No administration charges; and
- Cash (rather than vouchers) if requested by the passenger rather than at the option of the train company.

In the 2009 consultation ATOC estimated that this element of the regulation will cost the rail industry between £1.7m and £13m per year in today's prices.

The low estimate is based on revenue loss across all types of train services assuming that 15% of passengers delayed more than 60 minutes would seek a refund. The approximate total revenue from passengers delayed over 60 minutes is £11.6m. The resulting low estimate is therefore 15% of the total: £1.7m.

The high estimate was based on analysis by a long distance TOC which predicted in 2009 that the additional right would result in a cost of around £7k for each train delayed over 60 minutes. These estimates also include administrative costs. In the 13 periods to period 1410, 1,874 Long Distance sector trains were delayed by more than 60 minutes. The calculation 1,874 x £7k results in an annual cost of £13m.

The Department is not currently confident in the cost estimates provided and will wait for further clarification from industry on how some assumptions were arrived at (i.e. 15% of passengers delayed by more than 60 minutes would seek a refund). These cost estimates are also based on analysis conducted in 2009 (i.e. additional cost of £7k for each train delayed) and over the last 5 years there may have been changes which would alter this cost estimate.

Industry have informed the Department that they will look to explore the assumptions that are currently being used before providing revised cost estimates during the consultation. Therefore, these cost estimates have not been included in the summary sheet at this stage.

DfT agrees that removal of the exemption for this article would be an additional cost burden to industry, but believe that these costs are likely to be lower.

We note that in order to assess the additional costs attributable to the PRO, any cost estimates need to identify and discount:

- Passengers' current propensity to abandon journeys and claim refunds under NRCoC condition 26 where there are delays (especially delays of more than 60 minutes);

- The current costs of industry practice to re-route, allow use of other operators' trains, and the marginal cost of providing for future journeys.
- The additional cost of complying with Article 17 (section 6.3.1.9), which also provides for a refund in the event of a delay. The cost of meeting the requirements under these two articles cannot be considered in isolation and needs to be adjusted to avoid double counting.

Conclusion Article 16 costs

There will be an additional cost to TOCs to comply with Article 16, however, due to the limited evidence base, we have been unable to monetise the additional requirements of Article 16 at this time.

Consultees are invited to offer evidence on whether the removal of this exemption would result in any additional costs to the GB Rail industry and/or any additional benefits to passengers. As an example, evidence on the assumptions used, such as the percentage of passengers who would claim a refund if they're delayed by more than 60 minutes, and data on the number of trains delayed by over 60 minutes, would help the Department confidently quantify the additional requirements of Article 16.

6.3.1.8. Additional benefits of Article 16 – Reimbursement and re-routing

Full compliance with Article 16 is likely to provide passengers with additional benefits over current industry practice and requirements. Those are the direct benefits for passengers. However, implementation of these changes could also lead to improved passenger perceptions and satisfaction with rail services, as well as the way in which train operators deal with delays.

At present, according to the results of the National Passenger Survey¹⁶, passengers are least satisfied with the way that train companies deal with delays. Therefore, any improvements in the way delays are dealt with results in passenger benefits. Such improvements also lead to improved customer loyalty, fewer complaints, and/or more repeat business (particularly of leisure customers). This is of potential benefit to train operators.

Due to the limited evidence base, we have been unable to monetise the above benefits.

Consultees are invited to comment and submit evidence on the additional benefits from potential removal of this exemption.

6.3.1.9. Additional costs of Article 17 – Compensation of the ticket price (refunds in the case of delays)

This sets compensation in the event of delays to the journey (and where the passenger has not been reimbursed under Article 16):

- 25% of the ticket price for a delay of 60 to 119 minutes;
- 50% for a delay over 120 minutes.

Where a passenger has a return ticket, the calculation for a delay on one leg will be half the return fare paid. Rail voucher payments are acceptable, but where a passenger requests cash, this must be paid. No administration fee may be deducted though train companies can set a minimum threshold of up to 4 Euros before compensation is paid. The passenger will not have a right to compensation when they are informed of the delay before buying their ticket or if the delay is less than 60 minutes due to continuation on a different service or re-routing.

¹⁶ Analysis of National Passenger Survey, Spring 2014 wave, Passenger Focus

The minimum standard for passenger compensation for delay is set out in NRCoC condition 42 and does not meet the current PRO requirements. The compensation is payable in rail vouchers for passengers with single, return and weekly season tickets.

All TOCs are required under their franchise agreement to have in place a Passenger's Charter which will include the arrangements for compensation for passengers. In their Passenger's Charters, most TOCs offer more than the NRCoC minimum. However, such payments are only made for delays within the control of the rail industry and therefore do not satisfy the PRO requirements.

However, Delay/Repay, an improved system of compensation for all passengers (including all season ticket holders) based on delays to individual journeys is being introduced as franchises are replaced and opportunities arise within existing franchises. There are no exclusions for delays outside the control of the train operators or even outside the rail industry.

The costs from any removal of this article arise from those train operating companies that do not currently participate in Delay/Repay schemes as part of their franchise obligations. Costs for these train operators would therefore consist of the additional level of payments to match the PRO requirements and the additional volume of payments as a result of having to compensate for delays outside the control of the rail industry (e.g. due to vandalism, suicides).

Respondents to the evidence gathering exercise have not been able to estimate the cost of meeting this part of Article 17 but will look to do so during the consultation.

It is important that any such estimate takes account of any refunds potentially accounted for in Article 16 and the existing liabilities under condition 26(b) of the NRCoC that allows for unused parts of a ticket to be refunded in the event of delays.

On cash compensation it is the case that NRCoC currently only provides for payment of compensation in the form of travel vouchers rather than money on request as required by the PRO.

Conclusion Article 17 costs

The application of such a requirement would likely result in an additional cost to industry. At this stage we are unable to monetise the extra Article 17 PRO requirements and additional evidence from the public consultation will be necessary to do so.

Consultees are invited to offer evidence on whether the removal of this exemption would result in any additional costs to the GB Rail industry and/or any additional benefits to passengers.

6.3.1.10. Additional benefits of Article 17 – Compensation of the ticket price

Article 17 provides for the level and mechanisms of compensation payments in the event of delays to a passenger's journey. In terms of additional benefits to passengers, these would mainly apply to passengers travelling on train operators not subject to Delay/Repay¹⁷ (which exceeds the terms of the PRO).

¹⁷ Under Delay/Repay all passengers are entitled to claim compensation for each delay of more than 30 minutes which they experience, whatever the cause: There are no exclusions for delays outside the control of the train operators or even outside the rail industry (e.g. due to vandalism, suicides). The entitlement is more generous than that applied under the traditional Charter regime and the PRO and repays:

- 50% compensation of the single fare for delays of 30 to 59 minutes;
- 100% of the single fare for delays of more than 60 minutes;
- 100% of the return fare for delays of more than 2 hours.

Ten train operating companies currently offer Delay/Repay.

The non-Delay/Repay passengers would receive a higher rate and better terms of compensation, including for delays outside of rail industry control, if this exemption was removed. All passengers would also be entitled to request compensation in cash rather than vouchers.

These passengers would therefore benefit from an enhanced compensation regime (though not comparable with Delay/Repay, which is being rolled out as franchises are replaced). This could also lead to improved passenger perceptions, and satisfaction with rail services and the way train operators deal with delays. Improvements to customer loyalty, fewer complaints, and/or more repeat business (particularly of leisure customers) is of potential benefit to train operators.

It is important that only the additional benefits are accounted for here (i.e. are those going above and beyond the minimum standards set out in the NRCoC and in the various non-Delay/Repay train operator passenger Charters).

Due to the limited evidence base, we have been unable to monetise the above benefits.

Consultees are invited to comment and submit evidence on the additional benefits from potential removal of this exemption.

6.3.1.11. Additional costs of Article 18 (2) and (3) – Assistance to passengers in the event of delays

Article 18(2) requires that In the case of delays over 60 minutes, the passenger shall be offered free of charge:

- meals and refreshments in reasonable relation to the waiting time if these are available on the train or station or can be reasonably supplied.
- hotel or other accommodation and transport between the station and the accommodation in cases where a stay of one or more nights becomes necessary. This is only where and when physically possible.
- transport from the train to the station if the train is blocked on the track, to an alternative departure point or the final destination of the service. Again this is where physically possible.

Article 18(3) requires that where the railway service cannot be provided, the railway undertakings shall provide alternative transport as soon as possible.

Many of these requirements are already being met through industry practice. Train operators currently provide drinks and sometimes light refreshments to passengers on trains where delays exceed 60 minutes and have contingency plans in place to assist and rescue stranded passengers in the case of significant delay

Condition 43 of the NRCoC provides that a train company will, where reasonably practicable, provide overnight accommodation if a passenger cannot reach their final destination, and the train company cannot get a passenger to the destination by other means. If other train companies are in a position to assist they should help with arrangements to get passengers to their final destination. However, these requirements only apply where the disruption is caused by "circumstances within the control of the train company", whereas the PRO does not provide such a defence, and refreshments are not currently provided at stations during delays.

Full application of these parts of the article are likely to lead to additional costs to industry. For indicative purposes ATOC has updated the 2009 estimates to today's prices and broadly assessed that the costs of meeting Article 18 as between £6m -£17m per annum.

The low estimate is based on an approximate additional cost of £12.50 per passenger delayed multiplied by an estimated 928k passengers on services delayed by over 60 minutes (over the last year). This results in an additional cost of £12m per annum. But ATOC proposed to assume that only half the number of passengers (50%) would be affected on stations, because of the strenuous efforts that are made to quickly turn round trains operating late. Therefore the low estimate is £6m.

The high estimate is based on the estimate provided by one long distance and one London South East TOC of an additional £36.70 per passenger delayed. Applying this cost to the 928k passengers delayed equates to an annual cost of £34m. But assuming again that only 50% of passengers would be affected on stations results in £17m per annum.

However, it has also acknowledged by industry that these costs need to be recalculated to provide an updated cost for this consultation. Therefore DfT has not included these cost estimates in the summary sheets.

At this stage the Department will wait for revised cost estimates from industry as the current cost estimates based on analysis conducted in 2009 and over the last 5 years there may have been changes which would alter this cost estimate. The Department is not currently confident in the cost estimates provided and will wait for further clarification from industry on how some assumptions were arrived at (i.e. 50% of passengers would be affected at stations).

DfT agrees that compliance with Article 18 would lead to additional industry costs, however our initial view is that the cost could be lower than those currently estimated by ATOC. Any revised estimate should take account of:

- Existing industry best practice of providing refreshments on delayed (predominantly long distance) trains;
- Existing industry contingency plans to provide passengers with emergency refreshments in the event of prolonged delays, for example hot weather;
- Existing industry cost liabilities under the NRCoC condition 43 to assist passengers with accommodation and re-routing or alternative transport where delays are within industry control, and best practice arrangements where delays are outside of industry control.
- The underlying data and analysis behind the key assumptions in any revised calculations should also be provided.

Conclusion Article 18 costs

However, due to the limited evidence base, we have been unable to monetise the additional requirements of Article 18, and require further evidence as part of the consultation process to do so.

Consultees are invited to offer evidence on whether the removal of this exemption would result in any additional costs to the GB Rail industry and/or any additional benefits to passengers. As an example, the average number of incidents which happen as a result of something outside of the rail industry's control and the average cost of providing overnight accommodation per passenger would help the Department quantify one element of the additional requirements. Evidence on what would be provided by length of delay (and time of day for overnight accommodation) and cost would also be useful.

6.3.1.12. Additional benefits of Article 18 (2) & (3) – Assistance to passengers in the event of delays

The additional benefits for passengers would be the provision of refreshments at stations and the application of the assistance requirements for delay circumstances outside of the rail industry's control.

This benefits the passenger by providing additional comfort during delays at stations in all delay circumstances, and greater confidence in receiving assistance on trains in delay circumstances that are outside of industry control. This could also lead to improved passenger perceptions and satisfaction with rail services.

At present, according to the results of the National Passenger Survey¹⁸, passengers are least satisfied with the way that train companies deal with delays. Therefore, any improvements in the way delays are dealt with results in potential passenger benefits. This is essentially a transfer of payment from Train Operating Companies (who meet the compliance costs) to the passengers (who benefit from improved passenger rights).

Due to the limited evidence base, we have been unable to monetise the above benefits. It is important that only the additional benefits are accounted for here – i.e. those that go above the minimum standards set out in the NRCoC for assistance, which is already provided where delays are within the control of the rail industry.

Consultees are invited to submit any additional evidence on these benefits at public consultation.

6.3.1.13. Additional costs of Article 22 (3) - assistance for disabled passengers and passengers with reduced mobility at stations

This requires that at unstaffed stations, railway undertakings and the station manager shall ensure that there is easily available information regarding the nearest staffed station and directly available assistance for DPRMs.

Firstly it is worth noting that DPPP's require operators provide an alternative accessible service to take disabled passengers to the nearest or most convenient accessible station, where a disabled passenger is unable to travel from a station that is inaccessible to them. In many circumstances this would mean that a DPRM aware of this service would not travel from an in-accessible unstaffed station.

DPPP's also require operators to provide minimum levels of accessibility information for each station they operate and this can be found on the "Stations Made Easy" website. Train companies are required to make information on the facilities, services and accessibility of all their stations available to passengers at information points, station ticket offices, by telephone and on the internet. They are also expected to provide details of services and facilities at all of the stations they manage. However, if the relevant information is not already available at an unstaffed station, an operator would have to update its existing station welcome poster or other notices.

ATOC has provided two estimates for the cost of complying with this article.

The first cost is derived from premature replacement of station welcome posters at unstaffed stations to include the newly required information. This assumes that 806 stations would need to have posters changed prematurely at £96 each which equates to a one off cost of £77k (2014 prices). We consider this estimated additional cost provided by ATOC to be negligible in the context of overall rail industry costs and revenues.

¹⁸ Analysis of National Passenger Survey, Spring 2014 wave, Passenger Focus

The second from a cautious assumption in the event that the information would not fit on existing posters and that new poster locations would be required that displace existing media revenue. This assumes that provision of a poster at 1161 stations would result in a lost advertising income of £0.9m p.a. (2014) assuming a media revenue forgone of £800 pa.

The Department believe that utilising existing space and immediately replacing current posters, which tend to be updated every few years, could lead to a small marginal cost for train companies. However, a phased renewal when the poster is next re-issued, or making use of other display methods, could potentially be of negligible cost. We also believe that the cost of foregoing advertising revenue versus the negligible cost of redesigning a poster to include the information would appear to be an inefficient approach that would be unlikely to happen in practice. While we believe the cost to be negligible it is not currently included under Option 2 pending further clarification of these costs/assumptions.

The ATOC cost estimates are not currently included in the summary sheets as the Department is not confident in the cost estimates as these are based on analysis conducted in 2009. Industry have confirmed that they will be revising cost estimates for the consultation.

Therefore the Department will need to seek further detail on potential costs, and views on methods of complying with the requirement during the consultation before being able to confidently monetise the additional requirements of Article 22 (3).

Conclusion Article 22 (3) costs

We welcome further evidence on efficient, value for money, ways in which this requirement could be satisfied and evidence of any material costs of doing so as part of this consultation. However, due to the limited evidence base we have been unable to monetise the additional requirements of Article 22 (3). We hope to receive consultation responses that will allow us to better monetise the additional cost of complying with Article 22 (3).

Consultees are invited to offer evidence on whether the removal of this exemption would result in any additional costs to the GB Rail industry and/or any additional benefits to the passengers. As an example, an updated cost of replacing posters at stations would help the Department quantify the additional requirements of Article 22 (3).

6.3.1.14. Additional benefits of Article 22 (3) – Assistance at railway stations

The information required by Article 22 (3) is not routinely provided at unstaffed stations.

Therefore, the additional benefits of providing this information is for DPRMs who are currently unaware of the existing station accessibility information, and the types of assistance available, and who are currently deterred from travel from an unstaffed (and potentially inaccessible) station. It is also of benefit to those DPRMs who are unaware of a station's accessibility and arrive at that unstaffed station from which they may then not be able to travel.

Having the information available at unstaffed stations would inform DPRMs where the nearest assistance is available and facilitate onwards travel. For those previously unaware, it could highlight that there is assistance available and encourage more DPRM users to travel by rail.

Due to the limited evidence base, we have been unable to monetise the benefits of the Article 22 (3).

Consultees are invited to submit any additional evidence on these benefits at public consultation.

6.3.1.15. Article 24 (a) and (d) – conditions on which assistance is provided

Article 24 (a)

When providing assistance to DPRMs at stations and on board trains in accordance with articles 22 and 23, railway undertakings, station managers, ticket vendors, and tour operators must cooperate when providing assistance to DPRMs in accordance with the following conditions:

- a) A requirement of 48 hours' notice to request assistance; one notification should be sufficient where a ticket permits multiple journeys;

Under DPPP requirements operators do not require passengers to give more than 24 hours' notice (48 hours' notice for international rail journeys) when booking through "Passenger Assist." The domestic notice requirement is therefore shorter than the PRO requirement and this part is met at **no additional cost**.

However, the current Passenger Assist system (and ticket reservations in general) is only capable of handling bookings of assistance for multiple journeys for a twelve week advance period. For any season tickets of a duration longer than 12 weeks the industry would not be compliant with the requirement for just one notification of the need for assistance assuming the DPRM was able to provide adequate information on the timing of journeys over a more extended period.

Updating industry IT systems would likely come at a cost. We would welcome cost estimates and evidence in this area as part of the consultation responses.

However we have been unable to monetise the additional requirements of Article 24 (a) due to the currently limited evidence base. Industry have also been unable to provide a cost estimate for the additional requirements of Article 24 (a) but will look to do so during the public consultation. Additional evidence on the costs of updating IT systems will be helpful in quantifying the additional requirement.

Article 24 (d)

This additionally requires station managers or any other authorised person to designate points, within and outside the railway station, at which DPRMs can announce their arrival at the railway station and, if need be, request assistance.

This goes beyond current domestic requirements in DPPPs that only recommend that operators provide clearly marked designated meeting points at larger stations (Network Rail category A, B & C stations) for use by people who have booked assistance to meet station staff. This recommendation potentially means that 353 stations already have such measures in place but the remaining 2126 stations may not.

DPPPs also require the provision of information points at all larger stations, which are open whenever the booking office is open, ensuring they are clearly signposted and locating them in an obvious position. DPPP also note that information points should be clearly marked as the best place for disabled people to seek advice, and that booking offices themselves can be used as information points if suitably marked and equipped.

We believe that there is presumably some potential for dual use of booking offices as designated meeting points without additional cost to industry. At a smaller staffed station without information points or existing designated meeting points, a booking office could feasibly act as a default designated point. Additional information from consultees on whether this is feasible, and any estimated costs, would be helpful.

ATOC's view was that if not renewing this exemption could potentially impose costs on TOCs and provided a highly indicative cost estimate of between £13m and £33m (today's prices), on the basis of potentially needing to equip stations with intercom devices.

There are 1,312 staffed stations (such works not being necessary at unstaffed stations as alternative arrangements are made for DPRM assistance). If equipping each station cost an

average of £10k the total cost would be £13m; if the unit cost were £25k, the total cost would be £33m.

However, these cost estimates are only to be used as a guide to the possible order of magnitude. ATOC were unable to source actual costs in the time available and therefore the Department have not included these estimates on the summary sheet. We hope a more robust cost estimate will be provided during the consultation.

Given the arrangements already in place, we believe that there could be an additional cost for extra signage and information to highlight any newly designated meeting points at staffed stations if this exemption was not renewed. However due to the limited evidence base we have not been able to monetise the additional requirement.

Conclusion Article 24 (a) and (d) costs

Given the limitations of the available evidence base at this time, it has not been possible to monetise the costs of removing the exemption for Article 24 (a) and (d) and we welcome additional evidence during the public consultation to assist in doing so.

Consultees are invited to offer evidence on whether the removal of this exemption would result in any additional costs to the GB Rail industry and/or any additional benefits to passengers.

6.3.1.16. Additional benefits of Article 24 (a) and (d) – conditions on which assistance is provided

This requires that one assistance notification should be sufficient for multiple journeys. The removal of the exemption for Article 24(a) would be of additional benefit to holders of season tickets who wish to book assistance for periods longer than the currently available twelve weeks.

There are, however, practical considerations for passengers to provide information for extended periods. For those who can provide such advance information there would be additional benefits of the convenience of a single notification and surety of longer term assistance that would be useful for a DPRM commuter for example.

The removal of the exemption for Article 24 (d) would mean that designated meeting points are provided more widely than is currently recommended. Such meeting points are likely to help DPRMs to identify where they need to go to report for pre-booked assistance, or where they can request it. This can help facilitate journeys and make travel less stressful. The PRO would ensure that these benefits would be additionally available at many smaller stations. These additional improvements could encourage more DPRMs to travel by rail.

Due to the limited evidence base, we have been unable to monetise the benefits of the Article 24 (a) and (d).

Consultees are invited to submit any additional evidence on these benefits at public consultation.

6.3.1.17. Additional costs of Article 28 – Service quality standards

Railway Undertakings are required to define service quality standards that include the items listed in Annex III of the PRO Regulation and to implement a quality management system to maintain service quality. The items listed in Annex III include:

- Information and tickets;
- Punctuality of services, and general principles to cope with disruptions to services;
- Cancellation of services;
- Cleanliness of rolling stock and station facilities (air quality in carriages, hygiene of sanitary facilities etc);
- Customer satisfaction survey;
- Complaints handling, refunds and compensation for non-compliance with service quality standards;
- Assistance provided to disabled persons and persons with reduced mobility.

Under this Article Train companies are also required to publish a separate annual report on their service quality performance which must be made available on the railway undertaking's website and also on the website of the European Rail Agency (ERA).

Many of these requirements are already met to a degree through existing publication of data. For example, information on punctuality and cancellations can be found on ORR, Network Rail and TOC websites. Levels of customer satisfaction by TOC are published in the National Rail Passenger Survey, travel and ticket information is available on TOC websites as well as National Rail Enquires, and the ORR also publishes complaints handling data.

A number of train operators also have Service Quality Management Systems (SQMS) requirements within their franchise agreements and so a number of the PRO required reporting strands may be captured.

However, there is not full alignment between existing reporting and monitoring and that required by the PRO. In a number of categories such as availability of toilets, assistance provided to disabled passengers and air quality, new monitoring systems would need to be set up. In others, changes would be required to the way in which data is measured.

These changes would come at a cost – e.g. changes to arrival data capture is estimated by ATOC to cost £100k plus £40k annual running costs. Though not likely to be burdensome there are additional administration costs with setting up and publishing such a report.

The respondents to the evidence gathering exercise in general thought that the conditions of the Article 28 could impose an additional cost to industry. London TravelWatch's research has showed that factors such as cleanliness of rolling stock are important to passengers, so the requirement for TOCs to publish information on cleanliness and other factors is welcome.

Despite the Commission publishing some additional guidance on this article there remains some ambiguity as to the intention and expectations of some Article 28 requirements including measurement of air quality in carriages and hygiene in toilets for example. Due to the ambiguity of some of the PRO reporting requirements ATOC has not been able to provide a fuller estimate of the costs of compliance if the exemption for this article was removed therefore this cost estimate has not been included on the summary sheet.

Conclusion Article 28 costs

Given the limitations of the available evidence base, it has not been possible to monetise the costs of removing the exemption for Article 28.

Consultees are invited to offer evidence on whether the removal of this exemption would result in any additional costs to the GB Rail industry and/or any additional benefits to passengers. As an example, evidence on the changes to the way data on the Annex III is

captured and measured along with the costs associated with this will be helpful in quantifying the additional requirements of Article 28.

6.3.1.18. Additional benefits of Article 28 – Service quality standards

The requirement of Article 28 to define service quality standards should result in an improvement in the areas listed in Annex III of the PRO Regulation. Improving the level of service would result in additional benefits for current users of the trains, but also could prompt users of other transport modes to switch to using trains.

The requirement to publish a separate annual report on service quality performance will provide customers with more information, which in some cases could determine what operator passengers choose to travel with. This is a positive benefit for rail passengers. It increases transparency and generates accountability.

This could also result in more competition between TOCs and encourage them to improve service quality standards, as their statistics can be easily measured against other TOC's performance on the European Railway Agency website. However, due to the limited evidence base, we have been unable to monetise benefits of the Article 28.

6.3.1.19. Additional costs of Article 29 – Information to passengers about their rights

Article 29 (1) requires railway undertakings, station managers, and tour operators to inform passengers of their rights and obligations under the PRO when selling tickets. They may use a summary prepared by the Commission for this purpose.

The NRCoC must reflect the rights and obligation under the PRO unless there is a domestic exemption in place and should therefore provide a means of advising passengers of their PRO rights. Passengers are alerted to the fact that travel by rail is subject to the NRCoC through the use of window stickers at ticket office windows, on ticket vending machines as well as tick boxes, and links on train operator websites. Many tickets also now have a link to the NRCoC website.

The NRCoC also contains a summary of rights/conditions, and although it is no longer printed and displayed, it is printed on request and always available online. We therefore believe that the National Rail Conditions of Carriage (NRCoC) provide an appropriate vehicle for advising passengers of their rights under this Article, provided that rail operators, station managers and tour operators ensure that passengers are aware of and have access to them. Existing PRO requirements are incorporated into the NRCoC but not generally referenced.

In the Department's view the NRCoC would need to be amended to inform passengers of their rights and obligations under the PRO Regulation.

However, we believe the cost of compliance with Article 29 (1) would be negligible for the reasons referred to under section 6.2.1.2.

During the evidence gathering exercise, ATOC has suggested that this could be further enhanced at a small additional cost (£6k p.a. approx. – today's prices) of including a summary of customer rights in the "National Guide to Tickets" publication.

We do not believe that wider information displays (such as posters) are necessary to satisfy the PRO requirements, and therefore would not expect any existing revenue-generating media to be displaced as a result.

However, meeting this requirement for on-train sales is potentially more difficult to satisfy and could potentially introduce a one-off cost for TOCs.

ATOC has provided costs *if* a full summary poster was required at stations. This is estimated between an additional £1.7m p.a. and a £1.102m one-off cost (low estimate) and £2.3m p.a. and a £1.004m one-off cost (today's prices) (high estimate).

The high cost estimate is on the basis of lost advertising revenue at staffed stations (Table 4).

Table 4		source: professional opinion of ATOC Head of Marketing	
Station Category	Number	Media value lost pa	Total Loss pa
A (National hub)	27	£2,470	£0.07m
B (Regional hub)	67	£2,470	£0.17m
C (Important feeder)	259	£2,470	£0.64m
D (Medium-sized staffed)	311	£2,470	£0.77m
E (Small staffed)	648	£1,000	£0.65m
F (Small unstaffed)	1,161	£nil	£0.00m
Grand Total	2,479		£2.29m

The one-off cost for the high estimate is based on producing and applying four vinyl posters for all 12,500 rail carriages in Great Britain to accompany on-train sales:

(£20 (The labour cost of fitting one vinyl) x 12,500 (Number of rail carriages) x 4 (number of posters per carriage)) + £4,000 (Cost of 50000 posters quoted by ATOCs supplier) = £1.004m.

The low cost estimate is also on the basis of lost advertising revenue at staffed stations (Table 4) but assumes that 25% of the class A to F stations (i.e. 328 stations) currently have space for an information poster without foregoing media income.

The one-off cost for the low estimate arises from installing poster frames (328 (number of station spaces) x £300 (unit cost) = £98,400) and producing and applying four vinyl posters for all 12500 rail carriages in Great Britain to accompany on-train sales (as above equation, £20 x 12,500 x 4 + £4,000 = £1.004m).

Having considered the above costs provided by ATOC, the Department considers that the requirements of Article 29(1) would be satisfied by explaining passenger rights under the PRO in the NRCoC, the details of which are available when purchasing tickets. We believe that there may be negligible costs associated with this for stations, tour operators and pre-journey sales channels for train companies if the exemption was removed.

However, the estimates for on train sales indicate a potential cost to comply with 29(1). We welcome further stakeholder views and estimates on how this requirement could be proportionately and appropriately implemented in a cost effective manner.

At this stage, the Department has not been able to fully monetise the additional requirements of Article 29(1) due to the limited evidence base and we require additional evidence as part of the consultation to assist us to do so.

Therefore, at this stage of the impact assessment process, we have decided not to include the cost estimates provided by ATOC until we have received further information on ways of delivering the additional requirements of Article 29 (1). We hope to receive additional evidence during the public consultation to help us do so.

Article 29 (2)

Article 29 (2) requires railway undertakings and station managers to inform passengers on the train and at the station of the contact details of the PRO enforcement body (ORR) and the contact details of the complaints handling bodies (Passenger Focus and London TravelWatch).

There are existing domestic requirements under Complaints Handling Procedures (CHPs) that require information on how to make a complaint to be included in all major publications (such as timetables and on the operator's website). A notice should also be posted in each carriage of every train and at stations. Any such material, including posters, should provide details of Passenger Focus or London TravelWatch as appropriate.

However, we do not believe that ORR's contact details are routinely provided on station welcome posters or on train notices. To the extent that passengers need to be better informed about ORR contact details, we believe that this may result in some small marginal costs if posters were immediately replaced, however it could also be negligible cost if ORR's details were included when existing posters and notices are next updated as part of the routine update process.

Given the limitations of the available evidence base, it has not been possible to monetise the costs of removing the exemption for Article 29. The respondents to the evidence gathering exercise were also unable to monetise the additional requirements.

Conclusion Article 29 costs

At this stage the Department has not been able to fully monetise the additional requirements of Article 29 due to the limited evidence base. We require additional evidence, obtained as part of the consultation process, to assist us to do so.

Most of the respondents to the stakeholder evidence gathering exercise felt that the exemption for both parts of Article 29 should not be renewed, and that there is a potential customer service case for doing so.

Consultees are invited to offer evidence on whether the removal of this exemption would result in any additional costs to the GB Rail industry and/or any additional benefits to the passengers.

6.3.1.20. Additional benefits of Article 29 – Information to passengers about their rights

Passenger rights under existing PRO requirements are captured in the NRCoC, and Article 29 will ensure that passengers are informed of any changes to those as a result of exemptions not being renewed. This should lead to more passengers being aware of their rights, and potentially making additional complaints or claims. Where these are in relation to delays, for example, as detailed at Article 16, 17, and 18, this could lead to increased levels of satisfaction with rail travel. Where these complaints are acted upon this should also lead to higher service standards and further resultant benefits for passengers.

We believe that 29 (2) is already satisfied for London TravelWatch and Passenger Focus. Where contact details are additionally provided for the ORR this should increase passenger awareness of the National Enforcement Body and lead to additional information on potential infringements of passenger rights or industry non-compliances and potential enforcement activity. Any action taken as a result of this could provide passengers with the relevant benefits.

Due to the limited evidence base, we have been unable to monetise the benefits of the Article 29.

Consultees are invited to submit any additional evidence on these benefits at public consultation.

6.3.1.21. Overall Costs under Option 3

The cost of Option 3 is equal to the cost of Option 2 (zero) plus the cost to industry/business of removing the exemption from any of the additional articles listed in this section where the passenger benefits justify imposing costs on industry early.

The extent of these costs and benefits will be more fully determined through evidence gathered during the consultation. Other factors affecting final decisions on not renewing exemptions will include affordability and timeliness.

Therefore the maximum cost of Option 3 could be the full cost of removing exemptions for all the non-core articles of the PRO. Given the limitations of the available evidence, it has not been possible to monetise the costs of removing exemptions for individual articles under Option 3 and therefore the full potential costs.

The minimum cost would be zero if the evidence gathered shows that the passenger benefits do not outweigh the costs in which case the exemptions would be renewed for all the articles considered under Option 3.

Consultees are invited to submit additional evidence on these costs and benefits in the consultation.

6.3.1.22. Overall Benefits under Option 3

There is a general absence of monetised benefits in this area. We believe that most of rail industry costs of meeting the requirements of Option 3 is a transfer of payment from Train Operating Companies (who meet the compliance costs) to the passengers (who benefit from improved passenger rights). The costs are therefore imposed on TOCs and result in direct equivalent benefits to the passengers.

However, due to the limited evidence base, we have been unable to monetise these costs and associated benefits of Option 3 at this time. We expect to receive additional evidence during the public consultation to assist in monetisation of the benefits. The overall benefits of this option will depend on final decisions on removal of exemptions, which will also take into account affordability and timeliness. Those decisions will be informed by evidence gathered during the consultation. If the decision was to remove all exemptions then the package of PRO articles as a whole would align and enhance passenger rights in the areas of information and ticketing provision, compensation and assistance in the event of delays and cancellations, and rights for disabled people and people with reduced mobility.

The benefits of Option 3 implicitly include benefits of Option 2, which can be found in Section 6.2.2. Where it has not been possible to monetise a benefit, an initial qualitative description of the benefit has been provided.

Consultees are invited to submit any additional evidence on these benefits at public consultation.

6.4 “One-in/Two-out” (OITO)

Other than the “do nothing” option, all the other options would be within the scope of OITO and considered to be “gold plating”. As the UK would not be making full use of derogations which keep requirements to a minimum, it would be considered going beyond the minimum necessary to comply with EU law.

Option 2 would go beyond the minimum necessary as the UK would be removing exemptions from non-core articles for the remainder of the derogation period. However, removing these exemptions will not impose any additional cost (zero net cost) to the GB rail industry and will not place the UK at a competitive disadvantage compared to any other Member States. Therefore,

maintaining only those exemptions which would result in additional cost to business, as Option 2 proposes, is considered the most appropriate course of action.

Option 2 will be zero net cost as it only removes exemptions where the industry is already meeting the PRO standard as a result of existing domestic regulations or current best practise and other EU requirements. It will also remove the overlap between domestic and EU requirements.

Similarly Options 3 would also be within the scope of OITO due to "gold plating" as the UK would not be taking full advantage of any derogations which keep requirements to a minimum and potentially imposes costs on industry. However, due to the limited evidence base we have been unable to quantify the cost of option 3.

6.5 Monitoring and Enforcement

The Office of Rail Regulation (ORR) has been designated as the National Enforcement Body by virtue of SI 2010/1504.

With the exception of Article 26, all of the core and non-core elements will be enforced by ORR through the relevant operators' licences. For those entities which are not licensed by ORR, such as tour operators and ticket vendors, ORR will use enforcement mechanisms which mirror those available for licence enforcement.

Passenger Focus and London Travelwatch are designated as the official complaints handling bodies for the purposes of this Regulation. Should a passenger believe that a train operator, ticket vendor, station manager or tour operator has infringed the Regulation they should initially complain to the relevant party (train operator etc). If this does not lead to a satisfactory outcome, they may take their complaint to Passenger Focus or (when appropriate) London TravelWatch.

7. RATIONALE AND EVIDENCE THAT JUSTIFY THE LEVEL OF ANALYSIS IN THIS IA

The costs and benefits of the different options have been assessed to the fullest extent possible at this stage. However, given the limitations of the available evidence base, it has not been possible to provide new estimates of the costs and benefits of complying with the non-core elements of the PRO in some areas.

We are reliant on stakeholders for much of the quantitative (and qualitative) evidence that is needed to fully analyse costs and benefits of removing exemptions.

The Department for Transport has carried out a pre-consultation evidence gathering exercise to attempt to gather a broad understanding of where costs might have changed since the previous consultation. This has allowed some indicative updating of potential costs based on earlier figures but it has not produced detailed new cost information for analysis.

This is a consultation stage IA and therefore we expect to receive additional evidence during the consultation which will assist in providing more robust and up to date cost and benefit estimates wherever possible to better monetise impacts. Stakeholders have said that they expect to review their original 2009 analysis in depth when responding during the formal consultation.

Consultees are invited to submit additional evidence on costs and benefits across the IA and requested to provide the underlying data and analysis behind calculations and key assumptions for any evidence submitted, so as to facilitate a fuller analysis in the final stage impact assessment.

Where it has not been possible to monetise a cost or benefit, a qualitative description of the cost or benefit has been provided where possible.

8. RISKS AND ASSUMPTIONS

There are a number of key assumptions that underpin the above analysis:

There are two main assumptions made in this IA. The first is that we assume a new SI will be in place by December 2014, which will retain existing exemptions in full from 2014-2019. The second is that existing domestic requirements are considered equivalent to the PRO provisions. This implicitly assumes that industry are compliant with those domestic requirements. Therefore, any additional cost to TOCs to comply with the current domestic regulation would not be as a direct result of the PRO itself – rather it would be a reflection of TOCs not complying with some of the current domestic regulation/ required practice. The only additional costs are assumed to materialise where PRO requirements go above and beyond current domestic regulation and standards. Finally, it is also assumed that evidence provided by stakeholders in terms of costs and benefits are correct and an accurate representation of existing practice.

There are numerous risks that need to be considered in relation to the above analysis. The main risks are that:

- Stakeholders do not provide sufficient / correct evidence for final stage IA and that current information stakeholders provided is inaccurate.
- We commit a false-positive or a false-negative error (i.e. remove an exemption that results in high costs or do not remove exemption where few costs and a lot of benefits would have been otherwise realised).

9. REDUCING REGULATION POLICY

9.1 Review clauses

This consultation and impact assessment is in effect a review of whether it is appropriate to maintain exemptions for the next derogation period, which ends in December 2019.

If we do not remove all the exemptions in 2015 following this consultation, there will be an automatic 5 year expiry date of December 2019, prior to which another review of whether to renew exemptions will be required for the final permitted period of exemption. Therefore there is no need to have separate review clause in place.

10. SPECIFIC IMPACT TESTS

10.1. Equalities Assessment

Where exemptions are removed the relevant PRO articles would be applicable to all railway undertakings (and station managers, ticket vendors, and tour operators where specified) whether operating domestic or international services. We believe that this will have no negative impact on the rights and obligations of all rail passengers, irrespective of their age, ethnic origin, gender, nationality, race, sexual orientation or disability.

Some PRO Articles are specifically aimed at ensuring that all DPRMs, irrespective of whether this is due to disability, age or any other factor, have opportunities for rail travel comparable to those of other citizens. A number of protections already exist for DPRMs when travelling by rail in GB including under articles 19 and 20(1) of the PRO (since 2009), the Equality Act 2010, Railway Licencing regimes and the PRM TSI.

However, as described in the consultation document and this IA, in some areas the PRO goes further than existing accessibility requirements. In these areas it is likely that DPRMs would receive additional benefits if these PRO articles were removed. Nevertheless, if these exemptions

were retained then the status quo for DPRMs is maintained and there is no specific detriment as a result.

This is a consultation stage IA and at this point we are not able to quantify all costs or benefits in this area. Evidence and views of stakeholders that are submitted as part of the consultation process will help identify any further equality impacts and inform our final equality assessment.

We welcome evidence from all consultees on this issue and we would specifically welcome responses from DPRMs stakeholders.

10.2. Small and Micro Business Assessment

Where exemptions are not renewed the relevant PRO articles would be applicable to all railway undertakings, as well as station managers, ticket vendors and tour operators where specified, who operate domestic as well as international services.

The rail industry primarily comprises of large firms and railway undertakings who are not considered small or micro businesses. In the GB context station managers are likely to form part of a large railway undertaking. A number of ticket vendors will be considered larger businesses but it is currently unclear how the removal of any exemptions would impact on other ticket vendors or tour operators (who may fall into the smaller businesses category).

Through this consultation we are seeking views of businesses in the travel sector and the rail ticketing sector, to assess what the impacts on their business are likely to be. Evidence and views of these stakeholders that are submitted as part of the consultation process will help identify any impacts on these businesses and the size of the businesses in scope, which will inform our final small and micro business assessment.

We welcome evidence from consultees on this issue, including where potentially affected the size of their business.

10.3. Competition Assessment

We believe that there are no anticipated competition impacts as this Regulation applies equally to all train operating companies holding an EU licence who currently operate, or wish to compete to operate, franchises in future.

The possible exception is for the operators of charter train services who also hold EU licences. The character of these services differs significantly from those of other train operators. We are specifically seeking evidence on whether the PRO requirements would impact differently or disproportionately on charter train operators.

Nevertheless, we consider that existing domestic requirements mean that they are not in competition with mainline franchised TOCs, but only with other operators in the charter sector who are similarly subject to the PRO rules. On this basis we do not believe that there are any competition issues present.

PRO requirements will also apply equally to any ticket operators or tour operators active in the rail market and we expect no competition impacts within those sectors.

We welcome evidence from consultees on this issue.

11. SUMMARY AND PREFERRED OPTION

Option 1 is the “do nothing” option. It maintains the status quo by retaining all exemptions for the next derogation period to December 2019. This option has no cost implications and makes full use of available derogations and therefore is not considered “gold plating” or within scope of OITO.

However, it maintains some exemptions which no longer serve any purpose and leaves open the risk of backsliding by industry. In addition, it does not align the domestic regime with the PRO nor does it take into account industry progress during the previous period of exemption and any benefits this confers on passengers.

Option 2 proposes to remove exemptions for articles where there is no cost to business, and to maintain those where there are. This option also has no cost implications. It provides a better alignment of regulation between domestic and EU rules, removes overlaps and takes account of both industry progress on meeting or exceeding the standards required under the PRO, and the benefits that passengers are already receiving as a result.

It does not however make full use of our powers of derogation (but does not place any additional burden on business), and does not provide passengers with any significant new benefits. It is within scope of OITO but is a Zero Net Cost measure.

Option 3 proposes to remove any exemptions where the benefits potentially outweigh the costs to industry. This option has both cost implications and does not make full use of available derogations. It is “gold plating” that places a potential burden on business and is therefore within scope of OITO and considered an IN. There are also potential compliance issues for industry on expiry of the current exemptions. This option does however provide passengers with some additional benefits.

Preferred option

Option 2 is our preferred option. We believe this option recognises the existing PRO benefits that passengers receive as a result of existing compliance, and industry progress on this over the last period of exemption. Though technically “gold-plating” we believe this is justified as there is no additional cost burden placed on industry, as they are already compliant with the articles being removed. As such it is zero net cost.

It also provides for better alignment of domestic and European legislation. Better alignment of regulation provides clarity to both industry and passengers about their rights and obligations. This in turn will facilitate enforcement by the ORR under the railways licensing. We consider that it is a balanced and proportionate approach to improving passenger rights that: prevents backsliding while at the same time making use of available derogations where appropriate to take account of the time and costs necessary for industry compliance; recognises that compliance may be secured in future through planned actions; and ensures a progressive, phased implementation of the PRO by 2024.

12. IMPLEMENTATION PLAN

For any Article where a decision is taken to remove the exemption, this will require inclusion in an amending Statutory Instrument.

The provisions of SI 2010/1504 mean that ORR is already the designated National Enforcement Body for all PRO articles (save for Article 26 on personal security of passengers which falls to

BTPA and Article 30(2) on the handling of complaints about the alleged infringement of the PRO Regulation which falls to Passenger Focus or London Travel Watch). The SI makes use of the railway operator licencing regime to ensure that the train operators and station managers comply with the PRO. A similar enforcement regime applies to an infringement of the PRO by an independent ticket vendor. For any articles where exemptions are removed, the ORR will need to amend any existing relevant licence conditions or impose new licence conditions.

For the preferred Option 2, though licence conditions will change and consequential amendments may be required to NRCoC, there should be no practical change or costs for train operators as there they are already required by existing domestic regulation and other EU legislation to be meet the relevant PRO standard for the exemptions that are not being renewed.

Option 1 maintains the status quo and all exemptions. As such it will require no additional implementation action.

Option 3 will potentially lead to industry compliance gaps at the point of removing current exemptions. This in turn will have cost implications for train operators and enforcement implications for the ORR. Should Option 3 become the preferred option as a result of the consultation, the Regulator, the Department and industry will need to consider an approach to implementation in more detail.

The final stage Impact Assessment will set out more information on the implementation plan for the chosen option.

