LOCAL GOVERNMENT AND TRANSPORT COMMITTEE

Tuesday 18 January 2005

Session 2

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LOCAL GOVERNMENT AND TRANSPORT COMMITTEE

2nd Meeting 2005, Session 2

CONVENER

*Bristow Muldoon (Livingston) (Lab)

DEPUTY CONVENER

*Bruce Crawford (Mid Scotland and Fife) (SNP)

COMMITTEE MEMBERS

*Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP)
Dr Sylvia Jackson (Stirling) (Lab)
*Michael McMahon (Hamilton North and Bellshill) (Lab)
*Paul Martin (Glasgow Springburn) (Lab)
*David Mundell (South of Scotland) (Con)
*Tommy Sheridan (Glasgow) (SSP)
*Iain Smith (North East Fife) (LD)

COMMITTEE SUBSTITUTES

Bill Butler (Glasgow Anniesland) (Lab)
Colin Fox (Lothians) (SSP)
Mr Bruce McFee (West of Scotland) (SNP)
Mr Brian Monteith (Mid Scotland and Fife) (Con)
John Farquhar Munro (Ross, Skye and Inverness West) (LD)

*attended

THE FOLLOWING GAVE EVIDENCE:

Stephen Bennett (Strategic Rail Authority)
Stephen Boyd (Scottish Trades Union Congress)
John Clare (Rail Passengers Committee Scotland)
Iain Docherty (Adviser)
Ron Henderson (Network Rail)
Kenneth Hogg (Scottish Executive Enterprise, Transport and Lifelong Learning Department)
Kevin Lindsay (Associated Society of Locomotive Engineers and Firemen)
Ron McAulay (Network Rail)
Phil McGarry (National Union of Rail, Maritime and Transport Workers)
Paul McMahon (Office of Rail Regulation)
Tim Martin (Office of Rail Regulation)
Dougald Middleton (Ernst & Young)
Paul Plummer (Network Rail)
Jonathan Riley (Strategic Rail Authority)
Robert Samson (Rail Passengers Committee Scotland)
John Thomas (Office of Rail Regulation)

CLERK TO THE COMMITTEE

Eugene Windsor

SENIOR ASSISTANT CLERK

Alastair Macfie

ASSISTANT CLERK

Euan Donald

LOCATION

Committee Room 6

Scottish Parliament

Local Government and Transport Committee

Tuesday 18 January 2005

[THE CONVENER *opened the meeting in private at 14:04*]

15:05

Meeting continued in public.

Railways Bill

The Convener (Bristow Muldoon): I open the public section of today's meeting of the Local Government and Transport Committee. Committee members have had an initial discussion of some of the issues that we will debate today. In particular, we have considered a Scottish Executive paper on the financial arrangements for the United Kingdom Railways Bill.

To some degree, it is unfortunate that we received the information at a late stage because that makes scrutiny and discussion of some of the information more difficult. However, I have requested that if any of the witnesses who are giving evidence to the committee this afternoon has not seen the information in advance, they should be able at least to see the documents so that they are able to respond to the proposals. The situation is not ideal, but I understand that it is the result of on-going and extensive discussions between the UK Government and the Scottish Executive. The financial arrangements are now available.

I apologise to any of the witnesses that we held up while we were meeting in private; we wanted to discuss the meaning of the figures before we brought the first group of witnesses into the room.

Fergus Ewing wants to comment on his concerns about the matter.

Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP): Although we raised the issue of principle with the minister on 2 November 2004—in columns 1317 to 1318 of the *Official Report*—and in particular the criteria that will be used to allocate financial responsibility, whether it be Barnett, population, audit of need or estimation of value of the network, we received no information until after today's meeting started. We have only just received the figures and none of them has an explanation. That makes our scrutiny role almost impossible. Perhaps the figures should have been submitted to the Finance Committee for its normal scrutiny of important matters pertaining to the future responsibilities of the Scottish Executive and Scottish Parliament. This is no criticism of the gentlemen who are present just now but, so far, the procedure has been nothing short of shambolic. Obviously we will play our part today and try to improve things as we go along.

The Convener: Thank you for explaining your view on the matter. It is now important that the committee focuses on the UK Railways Bill, the devolved powers that it gives, and whether the resources that have been proposed as a result of agreements between the UK Government and the Scottish Executive will be sufficient to allow the Executive to have the impact on Scotland's railways that it aspires to have.

With that in mind, I welcome the first group of witnesses, who are representatives from the Office of Rail Regulation: Tim Martin is the director of infrastructure and economic regulation; John Thomas is the deputy director of economic regulation; and Paul McMahon is the head of regulatory economics.

Gentlemen, it would be useful if, when you make your introductory remarks, you could indicate the degree to which the ORR has been involved in the discussions that have taken place on the financial arrangements associated with the UK Railways Bill, and give any comments on the paper that the Scottish Executive has made available to the committee—I believe that you have had sight of it.

I invite Tim Martin to make his introductory remarks on behalf of the ORR.

Tim Martin (Office of Rail Regulation): Thank you for inviting us to give evidence to the committee. We are pleased to be here. I hope that we will be able to answer all the committee's questions, but if there is anything outstanding at the end, or any issue on which the committee is not clear from what we have said, we can send a note on it.

I did not intend to make any long introductory remarks, but I will pick up on your request for comments on the Executive's paper, which, as you pointed out, we have all just seen. I should say that the way in which devolution is to take place has been under discussion since before the white paper was issued. Since then, there have been extensive discussions. The ORR is not party to the arrangements between the two Governments, but we have been following the methodology and, broadly speaking, we agree with the way in which it has been done.

Basically, there are two elements: the costs that are expected to be incurred in Scotland in accordance with the regulatory settlement and

Network Rail's projections; and separation of the regulatory asset base. On the latter element, we have said that we intend to consult in the near future, because it is important to ensure that regulatory principles are established so that, should there be further devolution to other Governments, we will have a set of principles to follow. Obviously, quite large sums are involved.

John Thomas might like to add to that.

John Thomas (Office of Rail Regulation): I will add a bit more detail to what Tim Martin has said. As the committee knows, the Scottish Executive recruited Ernst & Young to do an assessment of the forward-looking costs and a split of the regulatory asset base. The ORR has provided comments throughout that piece of work. There are some straightforward elements that can easily be identified at a Scottish level—for instance, Network Rail's forward-looking maintenance and renewal costs—but clearly there are also some costs that are common to the network as a whole, such as overheads, and it is necessary to find an appropriate allocation metric for those costs.

We have provided comments that we believe have been taken on board in the final settlement, although, like the committee, we have not seen the detail of the calculations for the settlement. As long as our comments have been taken on board, the 10 per cent RAB allocation looks broadly sensible. There are a number of ways in which to allocate the regulatory asset base and there is no right answer. We will consult on the issue, but there are no great concerns that the figure is in the wrong ballpark.

Tim Martin: The other thing that we might comment on now is the ring fencing that is referred to in the Executive's paper. I ask Paul McMahon to explain from a regulatory point of view the options on which we will consult.

Paul McMahon (Office of Rail Regulation): The ring fencing relates to the regulatory regime under the new arrangements, once they have commenced, about which there is some debate. Different parties—in particular, the Government in London and the Executive in Edinburgh—are funding Network Rail and want to ensure that the moneys that they provide to fund outputs are retained for the benefit of the networks in the respective countries. Therefore, the issue of ring fencing arises. To what extent could or should we ring fence money within different time periods?

An extreme ring-fencing option could be sought, and money that is put into the network from either London or Edinburgh could be retained on an annual basis. If, for example, Network Rail was overspending in England and Wales, it could, in effect, draw on funding that it had received in Scotland—to the extent that Scotland was outperforming the regulatory expectations. In effect, Network Rail could borrow money from Scotland and use it to fund the achievement of outputs south of the border. Equally, the opposite could apply. Moneys could be ring fenced on an annual basis and if there was outperformance in a region—in Scotland, for example—moneys could be either returned to funders, used to fund additional outputs or used for a number of other uses.

That approach could be said to be quite strict and perhaps too extreme in constraining Network Rail's flexibility to run its business over the five-year control period in which we regulate Network Rail and specify its outputs, costs and revenues. The next option would be to say that ring fencing was appropriate, but over the five-year control period. Within the five years, Network Rail could manage its expenditure and outputs to achieve its regulatory outputs in both Scotland and England by shifting money from Scotland to England and vice versa. The intention would be to have a balance in the accounts at the end of the five-year period and no carryover into the next control period.

Other options include extending the ring-fencing option into future control periods. However, that raises issues to do with risks. Clearly there is a risk that funders—whether from Scotland or England—would not see their money over the medium term.

We seem to be coalescing around the option of a five-year period for ring fencing, but we will discuss the matter with all the parties in more detail. The issue will be central to our consultation.

15:15

Tim Martin: That covers the main financial issues in the statement from our point of view. If members want to ask about other issues, they should go ahead.

The Convener: Thank you. Those introductory remarks are useful. I will start off with a couple of questions before I bring in colleagues.

John Thomas described the broad 10 per cent regulatory asset base allocation to Scotland as being reasonable. I note that the ORR will have a role in auditing or verifying that settlement. How long do you expect that it will take for you to carry out the work and give information to both Governments about the final share? Do you have a feel for the potential for the final figure to vary from the broad 10 per cent figure that is proposed in the Executive document?

Tim Martin: We plan to consult on timing in the next couple of months—I mean towards the end of this financial year—which would accord with the due diligence work that we will be doing. That is the broad timetable. We will be able to confirm our view after the consultation. I note that the settlement is due to come into effect on 1 April 2006, so our work will be well in advance of that date.

John Thomas: What happens is subject to whether we go for a six-week or a three-month consultation period. If we went for a six-week consultation period, I do not see any reason why we could not consult on the matter by this summer, which is well in advance of a year next April.

Tim Martin: Perhaps Paul McMahon would like to talk about the range.

Paul McMahon: There has been much discussion about the range of values from a financial or economic perspective. We are interested in ensuring that, as far as possible, the final value reflects asset values on the network in Scotland, so we have considered a range of indicators, or values, including track kilometres, vehicle mileage and so on. Most of them are between 9 and 10 per cent—9.5 or 9.7 per cent are the sort of values that come up most frequently in discussions. Quite conveniently, those figures come in the central point of a range between about 6.5 or 7 per cent and 13 or 13.5 per cent, which is where the boundaries are, although those figures are quite extreme. That is why Tim Martin and John Thomas have indicated that we are fairly comfortable at this point with a 10 per cent value. That is expected to be very close to the final outcome that we might reach, but we need to consult on that, of course.

As a rule of thumb, one percentage point of difference in the share of the RAB is equivalent to around £15 million to £20 million on the bottom line in the funding settlement.

The Convener: A lot of concern has been expressed in recent years about the way in which the cost base of railway investment and maintenance has escalated in the period following privatisation. I am aware that the ORR, in both its current and previous guises, required Network Rail to bear down on costs quite extensively. To what extent is it possible to apply a different cost base to Network Rail in Scotland, as opposed to in the United Kingdom as a whole, as a result of both the different nature of the rail networks in Scotland and in the rest of the UK and other potential cost pressures associated with the various economic pressures in different parts of the UK?

Tim Martin: The different costs of the network in Scotland compared with those in the UK as a whole are reflected in the projected figures. In the current control period, the efficiency objectives will be the same for Scotland as for the rest of the UK. The regulatory system will apply in the same way. The costs going forward will be determined to a large extent by what Scottish ministers require of the system in Scotland compared with what the Secretary of State for Transport requires in England and Wales.

As in the white paper and reflected in the Railways Bill, the objective is for there to be a much more direct relationship between Governments and the amount that Network Rail spends and how it does so. As part of the charges review, which will establish how much Network Rail will receive and spend in the next control period, there will be a big role for Scottish ministers in determining the shape of the network that they want and the sort of services, capability and performance that will be required. That will be a key driver of how much is spent and how much budget the Executive is prepared to make available.

John Thomas: As far as the cost base or the underlying unit costs of the network are concerned, the access charges review that was completed in December 2003 was carried out on the basis of network-wide assumptions about efficiency and by estimating the forward-looking costs of the Scottish network compared with the costs of the English and Welsh network. We will have to make assumptions about the future efficiency requirements of Network Rail in both Scotland and England and Wales. You will not be surprised to hear me say that, at this moment in time, it is very difficult for us to say whether there will be a big difference between Network Rail's ability to achieve efficiencies in Scotland and its ability to do so in England and Wales. We will need to consider that at the next access charges review.

Tim Martin: In the previous access charges review, we did an extensive joint exercise with Network Rail to benchmark the costs of key operations between different parts of its business. The amount of further efficiency to be got out of the business depends on how efficient Network Rail is in Scotland now. Obviously there is further to go on efficiency savings where there has been a lot of inefficiency, such as on the west coast main line.

The Convener: I have a final question before I let in colleagues. There is a perception that since Network Rail was formed, there has been a move towards centralisation of some of its functions. To what extent might that affect the ability of the ORR or the Executive to audit adequately whether Network Rail is delivering on cost efficiency and outputs in relation to the priorities that the Executive sets for the ORR?

Tim Martin: Our ability to measure will not necessarily reflect Network Rail's management structure. Network Rail will give the committee further details, but some aspects are more centralised, while others are more decentralised. The key area is no longer what used to be called regions. We are sure that we will have and will be able to provide to the committee on a consistent basis all the right information relating to Scotland from across the company. The committee will be able to see the regulated accounts that we produce annually—to which we will obviously make adjustments to reflect the Scottish component—and to have access to the regular monitoring that we carry out in-between the annual accounts.

At the moment, we are consulting on what we call a Network Rail monitor, which will be a three-monthly statement of key performance indicators and costs. The intention is that that will be done on a company-wide basis, but in future we will need to have a Scottish division of the numbers to reflect the Scottish position on a number of those indicators. We will ensure that, regardless of how Network Rail is organised internally, the committee gets the information that it needs on the Scottish situation.

The Convener: You are content that the organisation of Network Rail will not hinder you in that job.

Tim Martin: Yes.

Iain Smith (North East Fife) (LD): I want to return to the regulatory asset base, which is a crucial issue for us to consider in determining whether the arrangements that are being agreed between Scottish ministers and UK ministers are satisfactory. Given the ORR's important role in the process, will you give a bit more information about the factors that will be taken into account in assessing the asset base? I presume that that is not simply a question of calculating the length of track and the number of bridges; I assume that other factors will be taken into account. Will you take into account issues such as the usage of the network and its quality—in other words, the level of maintenance that is required on the network in each area?

Tim Martin: The figure on the opening position for the whole company is fixed, so we are talking about apportionment. Under the regulatory principles, there are various ways in which we can say how we come to a figure. It is our ambition that charges should be as reflective of costs as possible. If charges were completely reflective of costs, we would be able to say that the sums were the same but, in Scotland, there is currently a discrepancy between the percentage that is represented by costs and the percentage that is represented by charges.

In other areas in which there has been a separation of that sort, such as the gas industry, there has been a concern that charges should remain constant for the end user, so the percentage that was represented by charges has been used. In this case, that is not so much of a consideration because the discrepancy is being paid for by Government rather than by passengers. However, we will consider the range between apportioning on the basis of a percentage of costs and on the basis of charges.

On usage, there are arguments about whether we take vehicle miles or simply track miles, which is a matter on which we want to consult further.

15:30

John Thomas: When Ernst & Young considered a range of factors to disaggregate the RAB, we suggested that it might consider using what we call equated track miles, which is exactly what Iain Smith suggested: an adjustment for track miles that is based on the quality or capability of the track. Potentially, that is a reasonable metric for allocating the RAB and is one of the metrics that we will suggest in the consultation document. Paul McMahon might remember what value is arrived at using the equated track miles method.

Paul McMahon: From memory, it is higher than 10 per cent.

John Thomas: That method is one possibility. We agree that adjustment ought to be made for the value, capability or quality of the assets.

Tim Martin: Simply using track miles has drawbacks, because track varies so much in quality and usage.

David Mundell (South of Scotland) (Con): How will your current organisation change to deal with the new arrangements, given the clear link with the Scottish Executive?

Tim Martin: As a result of the white paper and the bill, the ORR will take on new UK-wide functions. One is the advice and assistance role and the other is a direct responsibility for safety regulation. On the separation issue, we will probably have one group of people who concentrate on the advice and assistance role, so we will be well equipped to maintain dialogue with the Scottish Executive and the Scottish ministers in the development of the high-level output specification and the iterative process, which is the new arrangement for access charges reviews.

There will be constant discussion about Executive proposals. We will evaluate them, consider the options and perhaps say, "You can't have this for that amount of money." We will have a group of people to carry out the advice and assistance role, within which there will be people who are designated to deal with the Scottish Executive and the Scottish ministers. That will provide continuity and will allow us to understand exactly what the Scottish Executive's needs are and where it is coming from.

Members of Her Majesty's railway inspectorate are stationed throughout England and Wales, as well as Scotland, which will deal with the Scottish dimension on safety issues. Reporting and monitoring will be part of the wider exercise. We will ensure that we treat both Governments and all parts of the two countries in the same way.

John Thomas: It is worth pointing out that we will publish a draft corporate strategy for consultation during the next month, which will contain high-level corporate strategy and indicate the additional resources—if any—that the ORR might need to deliver adequately its additional roles and responsibilities, in particular in relation to the advice and assistance function, which is very important. That will not include taking over safety, which is a much bigger issue, but we as the executive will put broad-brush proposals to our board next week on the resources that we think that we will need to deliver our new responsibilities.

Tim Martin: We will need more resources, but we are trying to keep that as tight as possible.

David Mundell: It is interesting that the Scottish Executive paper says in relation to the ORR:

"No transfer of resources is required to reflect these arrangements".

Will you bid for more resources from your organisation's existing pot?

Tim Martin: Our costs are paid by the licence holders: Network Rail and the operating companies. I am not sure how that is dealt with between the UK and Scottish Governments in so far as the Governments make transfers to the licence holders.

John Thomas: We are talking about the advice and assistance role, not just in relation to the transfer of responsibilities to Scottish ministers, but more widely in relation to advice and assistance to the secretary of state, which is a new role that we have not had in the past. We might well be able to shift resources, reprioritise, do things differently and become more efficient in some areas. We are currently considering such measures and we will make recommendations to the ORR board on the matter. Generally, the office will have a greater role and greater responsibilities, which might need a few additional resources.

David Mundell: The minister will need to satisfy us that you will have the resources that you need to be able to carry out the responsibilities that you will be given in Scotland.

Tim Martin: We will be very sure that we get those resources.

Michael McMahon (Hamilton North and Bellshill) (Lab): I was interested in Tim Martin's comments about how the UK and Scottish Governments will be treated in the same way. Will the Westminster Government have control over the costs of investment? Will the Government in Edinburgh have the same control under the proposed arrangements?

Tim Martin: There is an element in the settlement that relates to enhancements—I think that the figure is £17 million. Within that, I believe that the enhancements will be specified by each Government. By "enhancements", I mean new developments over and above renewal and maintenance. Is that what you were getting at?

Michael McMahon: I am talking about the direct control over Network Rail and Scottish ministers' input. You said that there will be a huge role for Scottish ministers.

Tim Martin: Yes, in relation to the high-level output specification.

Michael McMahon: If Scottish ministers do not control the cost of investment, will the Westminster Government have control of such matters? If it will have such control, are both Governments being treated equally?

John Thomas: Both Governments are being treated equally, because what is envisaged is that Scottish ministers and the secretary of state will say, "These are the high-level outputs that we want out of the railway in Scotland, England and Wales and this is how much money we have to provide those outputs." An iterative process will follow, whereby the ORR will undertake an initial assessment of the cost of the required outputs. If the cost differs from the amount of money that Governments want to spend, the iterative process will offer an opportunity for Governments to say, "We want to change the outputs in this way," or, "We are prepared to provide more money." The process will work in exactly the same way for both Governments.

Paul McMahon: That is right. When the Scottish Executive and the secretary of state have specified the outputs that they want and the funding that they will make available, we will set out the framework for carrying out the periodic review of access charges. Network Rail will then submit its strategic business plans, with its funding requirements. We will challenge and audit those, using the same principles in both Scotland and England.

Michael McMahon: So Westminster has no more power to influence investment than the Scottish Executive has. The same dialogue takes place between you and both Administrations.

Tim Martin: I understand that there are two distinct pots of money and output specifications. We must treat both in the same way.

Paul McMahon: We would consult on our approach to undertaking an access charges review. We would then carry out a detailed efficiency challenge and audit of Network Rail's assessments. In our consultation document and framework methodologies, we would explain how we intended to do that across Great Britain as a whole and any differences that there might need to be to take account of circumstances in Scotland or the rest of GB. Any consultancy work that we commissioned as part of the challenge and audit would be published, in the way in which that has happened historically.

Michael McMahon: However, the Westminster Government has no more influence over you than the Scottish Executive has.

Tim Martin: Certainly not. Each output specification will refer to those elements that are devolved, which is an issue that the committee is debating. Within that constraint, we treat them exactly the same.

Iain Smith: If Scottish Executive or UK ministers specify an output that they think they should be able to get for the money that we can afford to give, but you then say that we need to spend more, who can say to the ORR that they want it to drive Network Rail harder to get better efficiencies and more outputs for the money that has been invested? Who has the final say—UK ministers, Scottish ministers or no one?

John Thomas: We will have the final say regarding how much the outputs cost.

Iain Smith: What happens if we are not happy with that and think that the cost base of Network Rail has not been reduced sufficiently compared with Irish Rail, for example? We might ask why Network Rail is unable to provide a service for significantly less, when Irish Rail is able to do so. Who can require the ORR to have Network Rail drive down its cost base further?

John Thomas: That is part of the normal consultation process that we undertake and the audit and challenge that we provide to Network Rail. During the previous review we received extensive comments and some parties did extensive work on the amount by which they thought Network Rail's costs should be driven down. We take all such views seriously into account. Ultimately, we must reach an independent view and judgment of the amount by which Network Rail should realistically be able to drive down its costs and of what the efficiency savings in the business should be.

Tim Martin: We use a wide range of measures and some transparent comparisons and benchmarking, both within Network Rail and in other companies.

John Thomas: And internationally.

Tim Martin: As John Thomas says, this is a very transparent exercise. At the end of the day, we must make a judgment on Network Rail's ability to make further efficiency gains. It is for politicians to determine how much they want to spend and what they want to get out of that. However, we are responsible for working out what it is reasonable to give Network Rail in order for it to deliver the specification, and for efficiency issues.

Paul McMahon: There is provision in the bill for referral to the Competition Commission, if parties are not happy with the periodic review determination.

15:45

Bruce Crawford (Mid Scotland and Fife) (SNP): I thank the witnesses for coming to give evidence today. I will come back to the issue of the regulatory asset base, because in future that will determine the baseline from where we start. Once we start applying the Barnett formula we will, unless we change it, be stuck with that 8.9 per cent increase, or whatever it is, every year. It is vital that we get a fair settlement for both sides.

All that I can do is seek assurances from you that the detail that you look for from Network Rail will be robust. Network Rail has kindly provided us with some rough figures—sorry, I should not say that they are rough; I do not know how accurate or otherwise they are. Network Rail has kindly provided us with some key overall facts and figures about the infrastructure across GB and Scotland. Although I realise that it is not as simple as looking at the bald figures, the 10 per cent figure does not appear to be as robust as it might seem. Network Rail indicates that there are 14,000 bridges in Scotland and 40,000 in the rest of the UK. According to the times-10 ratio we would expect there to be 140,000 bridges in the rest of the UK, although the bridges in Scotland are probably a lot smaller and do not have as many trains going on them.

How will you audit the key facts and figures that Network Rail provides you with? How will you judge whether Network Rail has come to the asset value properly and what the state of historic spend on the asset has been? It may be that either the rest of the UK, or Scotland, has traditionally had a lower level of spend and that therefore the asset is not at the maintenance level that is required. All those issues will need to be examined to establish what the final settlement might look like. I seek an assurance that you will look at the overall central costs of running Network Rail and ensure that we in Scotland and in the rest of the UK have a fair element of that cost built into our RAB, because the money that we pay to Network Rail will be an on-going cost. I seek assurances that the level of detail that is required will be examined by the ORR and that the Local Government and Transport Committee and the Scottish ministers will be able to see the information in a transparent way. I will ask you about one other matter, but I will let you respond to those points first as I have asked a lot of questions.

Tim Martin: You make good points that illustrate why we have to consult others on the matter. Ernst & Young has done a thorough job on behalf of the Scottish Executive. That is a starting point. We will clearly have to take our own advice and look at the detailed measures and put together a matrix of all the different considerations. As you know, we have to remember that the RAB is not a fixed asset valuation, so it is complicated; we are talking about apportionment, but what you say is perfectly fair. It is necessary to consider the individual assets and see how they might take us in a particular direction in apportioning the overall total. We would take advice on that and, as I say, have regard to the work that Ernst & Young has already done.

Paul McMahon: As Tim Martin said, we worked hard with Ernst & Young, but it has been on the basis—Ernst & Young has commented on this—of a data set that does not give us perfect foresight. Ideally, in making a financial settlement such as that which the Executive seeks to make you might want to have 10, 20 or 30 years of financial projections, but that is currently not possible. Network Rail does not provide financial forecasts for its expenditures beyond 10 years, and even a 10-year forecast is done at a national level for Scotland or for other areas of England and Wales. Network Rail provides detailed three-year forecasts. In addition, we have information over a five-year control period. Therefore, the Ernst & Young analysis for the Scottish Executive is based largely on a three or five-year forecast. Things can happen after five years and we will address those at the next access charges review in 2008. However, we have not yet undertaken a review or assessment of the likely path of efficiency savings in the fourth control period starting in 2009. We have not assessed the rate of return or the cost of capital, which are key building blocks for Network Rail's revenue requirements.

Tim Martin: We assure you that we take this matter seriously, which is why we have not just said, "That is the right number."

Bruce Crawford: That is reassuring. I have a couple of further questions. First, when was the Ernst & Young report completed? Secondly, can you tell us what the railway consists of? Our adviser suggested that good question. London Underground Ltd obviously runs a fair chunk of its infrastructure above ground and it receives resources from the Government to maintain that. We could say the same, as has been pointed out, about the Glasgow underground, which is also part of the issue. For the final settlement, will you consider what the railway consists of? That will obviously affect the longer term, as far as the Barnett formula is concerned. If money goes into the London underground in future, that will not necessarily be reflected in the Barnett formula. Therefore, we need to get it right at the beginning and ensure that we know what the railway consists of.

Finally, on page 3 of the Scottish Executive paper that we received, it is stated that the ORR will come up with the RAB. What happens if the parties do not agree? Who has the final say?

Tim Martin: I will take those points in order. You asked about the Ernst & Young report. The date that we have for that is 20 December 2004, I believe.

Paul McMahon: The final report is dated 20 December. There is a slide pack. However, there have been meetings and discussions since that date.

Bruce Crawford: I also asked about the London underground and who has the final say.

Tim Martin: You asked what the railway consists of. We assume that it is the assets that Network Rail owns, which form part of the RAB. I am not sure how the London underground piece—

Paul McMahon: We do not regulate the underground.

John Thomas: Although we will in future, of course, have responsibility for the safety duties in respect of those railways. However, in terms of the cost allocation, our economic regulation functions do not extend to the likes of the London underground.

Bruce Crawford: I accept that and understand the position that you are in legally. However, for the final settlement, you will have to help make a decision about what the RAB is for Scotland. I would have thought that there must be a judgment about how much of the London underground is actually railway, because London Underground Ltd receives money from the Government. Therefore, we need an equal share to run the facilities that we might have in Scotland in future. That is perhaps something that you need to go away and talk about.

Tim Martin: We need to consider that matter further and we will give you any subsequent thoughts on it. However, we are working on the assumption that what we are looking at is an apportionment of the Network Rail assets, both in England and Wales and in Scotland.

Bruce Crawford: I am asking you to be more adventurous.

The Convener: I suspect that that is more of a political question.

Bruce Crawford: It probably is a political question. Civil servants are listening and if the seed is planted now, perhaps they can get to the minister before he comes to tomorrow's committee meeting.

The Convener: Mr Crawford's final question was about dispute resolution.

Bruce Crawford: Yes. Who has the final say?

Tim Martin: I repeat what we said about efficiency. We will consult extensively, but ultimately we will have to decide.

Bruce Crawford: You will decide or ministers will decide?

John Thomas: The ORR will have to decide what number we think is the fair apportionment, taking into account all the work that has been done and everything that everyone has said.

Bruce Crawford: What happens if we, or the rest of the UK, say, "Sorry, we don't agree with you"? Where do we go?

John Thomas: Generally, that is the whole point of consultation. If we were suggesting something that nobody agreed with, I do not think that we would be doing our job correctly. Of course, we have to take on board everybody's views and comments, but ultimately, as Tim Martin said, we have to come up with a conclusion and a view. It is our job to do that. The extent to which you take that on board in the financial settlement is an issue between Scottish ministers and the secretary of state. Ultimately, however, we will have to conclude on the principles, because we will want to apply those principles, if necessary, to other parts of the network.

Paul McMahon: John Thomas and Tim Martin may know about this in detail, but ultimately there could be a judicial review of ORR decisions.

Tim Martin: Normally, if nobody agrees, then you have got it right, I think.

Bruce Crawford: That is probably a fair point, but I suppose that, mischievously, it leads me to the question of who appoints the ORR, because they have probably got the real final say. I do not expect you to answer that. I am sorry; that is cruel of me.

Tim Martin: We shall defer on that.

The Convener: I shall follow on from some of Bruce Crawford's questions about the regulatory asset base. Page 3 of the Executive's document states:

> "The £302m sum takes into account track access income from cross-border passenger and freight operators."

Two questions follow on from that. First, do you have any explanation for how the allocation of cross-border passenger track access has been reached, and is there a formula that you have given to the relevant Governments to calculate the share of track access between England and Scotland, particularly in terms of the Great North Eastern Railway and Virgin franchises? Secondly, does that mean that the ScotRail track access charge is in addition to that £302 million sum, given that it is not referred to in that sentence? That might not be an issue that you can respond to, but if you can respond it would be helpful.

John Thomas: I shall answer to the extent that I can. My understanding is that ScotRail's track access charges are included in the calculation, but GNER's and Virgin's track access charges are actually excluded from the calculation. There were on-going discussions about having a proportionate split of the fixed charges between England and Wales and Scotland, and it was decided that that was complicating matters and would be excluded from the settlement. There is no assumption that Network Rail Scotland, if you like, receives access charges within Scotland from GNER and from Virgin. That is my understanding. Like everyone else, I would have to look at the final details of the settlement.

The Convener: The document says:

> "The £302m sum takes into account track access income from cross-border passenger and freight operators."

John Thomas: The Executive has said, "This is what we believe the revenue requirement to be in Scotland for Network Rail. This is how much track access income Network Rail is receiving from the likes of ScotRail and from freight operators. What is the shortfall?" That is how the calculation has been done.

Tommy Sheridan (Glasgow) (SSP): I would like to investigate your overall raison d'être. Would it be fair to say that you exist as a guardian of the public pound? Is your role effectively to ensure that there is value for money for the public pound?

Tim Martin: Yes. We have public interest duties in our statutory duties. You are right to say that the bill proposes that the value-for-money point should be explicitly made, and there is an amendment to the Railways Act 1993 to make that clear in the proposed wording that is being considered at the moment. That is our objective.

Tommy Sheridan: So you are not just auditors of the money that is being spent; you also have a role in discussing whether that money is being best spent.

16:00

Tim Martin: As with many of the other privatised industries, when the ORR was set up, it was clear that, whether or not public money was involved, there was a need to ensure fair play among all participants in the industry—the operators and the infrastructure provider. Because the infrastructure provider does not have any competitors to require it to behave as a company normally would in a competitive market, there is a need to ensure that it does not abuse its monopoly by overcharging its customers and that it acts in the public interest. The ORR's role was always to ensure that all those things happened and, in particular, that Network Rail acted in the public interest. That has been emphasised in the amendments in the bill that highlight the value-for-money point.

However, it is not only a question of price checking. We have to decide through consultation and extensive due diligence work what it is fair to ask Network Rail to do and how much it is fair for it to be paid to deliver a certain result. If somebody says that they want a certain kind of railway—with a certain number of lines that will take freight, a certain number of passengers and a certain level of service—we have to do our work and come up with what, in our best judgment, it is reasonable for Network Rail to charge them for providing that railway and what the efficient cost of doing so is. Judgment is involved in getting to that point, but we take an entirely objective, impartial approach to ensure that both sides are fairly treated.

Tommy Sheridan: Based on that "entirely objective, impartial approach", can you tell me whether the level of public investment in the railway industry in Scotland and throughout the United Kingdom is higher or lower than the pre-privatisation level and whether we are getting more or less for the public pound?

Tim Martin: I cannot give you the precise numbers for investment before and after privatisation, but it is fair to say that investment is now at a record level and we are doing our utmost to ensure that the public get value for money for that investment. In the most recent access charges review, we carried out an extensive analysis of whether the money was being spent wisely. In fact, we reduced by a significant amount the amount that Network Rail asked for. Network Rail is now getting what we consider to be an efficient amount to provide the services that are required by the increased amount of usage. Since privatisation, usage has gone up by around 30 or 40 per cent and, as I said, investment is at a record level.

Tommy Sheridan: Did the ORR have a value-for-money role in Network Rail's decision to take maintenance in house or was that entirely Network Rail's decision?

Tim Martin: One of the things with which we were concerned in the most recent review was the efficiency of the work that is being done. Network Rail has taken the view that it can get more efficient work out of an organisation that it controls. We have listened to its arguments for that and, as we stand today, they seem good. There is also a safety issue, and Network Rail believes that having more direct control of maintenance produces a better result all round.

John Thomas: It is important to point out that as a regulator we are not there to micromanage the company. We set what we think are challenging efficiency targets for the company to meet, but to a large degree it is up to the company to organise itself in the way that it sees fit to deliver those targets. One of the things that Network Rail decided it could do to improve its efficiency and meet those targets was to bring maintenance back in house. Clearly, the ORR needs to be satisfied that the proper processes are in place so that the company can manage the transition and so that the outputs are not affected—it can still deliver what it is supposed to be delivering while the transition takes place. We are clearly interested in certain things, but Network Rail made the management decision to bring maintenance back in house to deliver the outputs and the efficiency requirements.

Tommy Sheridan: The reason I asked about your being the guardian of the public pound is that it appears that Network Rail is stretching the public pound further by deciding to take in house a function that had been outsourced. According to you, efficiencies have come out of that. I would have thought that the ORR was concerned with such decisions. Have you asked Network Rail to consider whether renewals of the network would be better served in house rather than out house?

Tim Martin: As John Thomas said, we have set out the framework for Network Rail, and it is up to Network Rail to determine whether it gets the best efficiency and performance results from its decisions. We would generally expect it to come forward with proposals and we would ensure that it was able to make changes without jeopardising any part of the business. It could make a case for a change, but we would not take an initial view and say, "You ought to be doing this or that," because that would lead us quickly down the road of micromanaging the company, which is not the way in which the ORR thinks that the industry should be run. We will make that clear in our corporate strategy document, to which John Thomas referred. In essence, the industry has to be run at operational level by the companies. I am certainly not qualified to run a railway infrastructure company so I would not presume to tell the companies how to do that.

John Thomas: We are interested in whether Network Rail delivers on its efficiency targets. If it was not doing that, we could take certain steps, including taking enforcement action and asking the company for a recovery plan for getting back on the efficiency trajectory. Holding the company to account, monitoring it and taking enforcement action are within our gift. It is important to emphasise, as Tim Martin has done, that we are not there to tell Network Rail how to run its business.

Paul McMahon: We have had an access charges review and we undertake a lot of efficiency assessment and benchmarking that includes other parts of Network Rail and railway companies in other countries. Those studies might—or might not—reveal that in-sourcing or outsourcing is best practice, which would inform our determination of the efficiency trajectory for Network Rail. We also encourage Network Rail to undertake its own benchmarking. I believe that it is a member of a European benchmarking working group, which would reveal best practice.

Tommy Sheridan: Has the ORR specifically sought the extra role in relation to rail safety?

Tim Martin: No.

Tommy Sheridan: What expertise does the ORR have in relation to rail safety?

The Convener: I think that we are getting a bit off the track, as our main purpose is to debate the UK Railways Bill. The allocation of different responsibilities was done separately by the Secretary of State for Transport. I will allow Tim Martin to answer the question, but I do not want us to go too much further down that road.

Tim Martin: There is a short answer.

Tommy Sheridan: I should make the point that, under the bill, the ORR will be responsible for the regulation of safety across the railways, and I want to know what makes people in the ORR qualified to be responsible for safety.

Tim Martin: The question is perfectly reasonable.

The Convener: I am trying to stress that we are considering and scrutinising the devolution of powers to Scottish ministers.

Tommy Sheridan: That includes the power that will be accorded to the ORR in relation to railway safety in Scotland. I want to know what qualifications people in the ORR have to ensure that the railways in Scotland are safe.

Tim Martin: As I said, there is a short answer. Earlier, we discussed increasing our resources by a smallish percentage; we also discussed the increased responsibilities on the economic regulation side, the matter of advice and assistance and so on. As far as safety is concerned, the people who do the job with the Health and Safety Executive at the moment are becoming part of the ORR. The question of our expertise does not really arise, as the people with expertise are becoming part of the ORR.

Tommy Sheridan: The body that will be responsible for financial efficiency will also be responsible for safety.

Tim Martin: That is right.

Tommy Sheridan: That would make the railways the only industry in Britain for which that is the case.

Tim Martin: Both safety and economic regulation are handled within the Civil Aviation Authority, which is considered a model that has worked well. We have published a letter, which I think has been made available to the committee, detailing our emerging thinking on how we intend to work the economic and safety regulation functions together. I would be happy to follow up on that matter on another occasion if the committee wishes more information. I think that the letter sets out most of the details.

Tommy Sheridan: If we could get a copy of that letter, that would be great.

Fergus Ewing: As I understand it, the ORR is an economic regulator.

Tim Martin: Indeed.

Fergus Ewing: You have mentioned that you have efficiency targets. I will ask you a very simple question: how inefficient is Network Rail at present, in percentage terms?

Tim Martin: I suppose that it is a question of comparators.

John Thomas: During the access charges review last year, we required Network Rail to reduce its unit costs to improve its—

Fergus Ewing: By what percentage?

John Thomas: By 31 per cent across the business over five years.

Fergus Ewing: If the bill is passed in its current form, would the figure of 31 per cent be applied to Scotland and England uniformly?

Tim Martin: In the current control period, yes it would. Going forward, we will be assessing the two parts of the network. We need to consider further how separate the price reviews will be in the future. We will examine Network Rail's projected costs for each part and will form a view on the scope for efficiency savings in that projected expenditure. If Scotland is incredibly efficient today, it might be that the scope for efficiency savings going forward is smaller than in an area where Network Rail is very inefficient. There will be regional efficiencies. More detailed benchmarking requires to be done to establish the relative efficiencies and the way in which they lie between the different parts of the company. Going forward, we will take that into account.

Fergus Ewing: If you do not know how inefficient or efficient Scotland is, how are you able to conclude that you would apply a 31 per cent reduction before the current cost period comes to an end?

Paul McMahon: The reduction would apply not necessarily pro rata but equally across the entire Network Rail business.

16:15

Fergus Ewing: With respect, that is not really an answer. You said that you are planning to apply a 31 per cent reduction to Network Rail's spending across the UK. However, you also say that you have not yet formulated a picture of whether the position in Scotland is more or less efficient. My question, which has only occurred to me in light of your evidence that you do not know the facts, is how you can have reached the decision to apply such a reduction.

Tim Martin: The 31 per cent represents the overall requirement on Network Rail. Its obligations will not change as a result of the settlement, which has been decided between the Governments and takes into account assumptions about relative efficiency. However, we have been asked to consider not that question, but the allocation of the RAB that we discussed earlier.

John Thomas: Network Rail's forward-looking costs have to be consistent with its regulatory revenue allowance across the entire network. It is allowed a certain amount of money and, as a business, it chooses where to spend that money, subject to delivering on outputs across the network. It has produced a business plan allocating moneys to Scotland that have to include efficiency savings. To that extent, the settlement already takes into account efficiencies that Network Rail believes that it can generate in Scotland for this control period.

Fergus Ewing: When does the control period end?

John Thomas: It ends on 31 March 2009.

Fergus Ewing: So we are talking about the next four years.

In response to Iain Smith, you said that you had suggested to Ernst & Young that it might use as a criterion for cutting the cake a formula that, unless I misheard you, you described as equated track miles. Is that right?

John Thomas: That is right. That was one of the options that we suggested could be used; however, as we have been discussing in a lot of detail, there are other options. We need to do much more work to determine which is the most appropriate.

Fergus Ewing: I think that it is right to say that the equated track miles criterion was not applied in this respect. Instead, it was broadly the Barnett formula that was used.

John Thomas: We will need to see the exact details of the criteria that were used to reach the 10 per cent figure. We have not seen those yet.

Fergus Ewing: Have you seen Ernst & Young's final report?

John Thomas: Yes but, as we have said, it contains a higher figure.

Paul McMahon: The final report that we have seen, based on a 20 December presentation, used a value of 13.3 per cent. That figure was based on track kilometres.

Fergus Ewing: In your judgment, how many track kilometres are there in the infrastructure in Scotland?

John Thomas: We do not have the exact figures to hand. Network Rail is probably better placed to answer that question.

The Convener: Network Rail has distributed to committee members figures for track kilometres in Scotland compared with the rest of GB.

Fergus Ewing: Would you expect Network Rail's figures to agree with the Scottish Executive's figures?

John Thomas: You would have thought so, because Ernst & Young would have been asked to provide them.

Paul McMahon: In all the dialogue, there has been no dispute over the factual value of the length of track kilometres, the distance of equated track miles or any of the other metrics. Instead, the dispute has been over whether such aspects are applicable to the disaggregation of the RAB.

Fergus Ewing: My question is not entirely a trick one—I am not trying to trap you, gentlemen. The information that I have from the Scottish Executive is that there are 5,489 track kilometres in Scotland, but the figure that we received from Network Rail—after this meeting had started, in fact—is 4,140. There is a huge gap between those figures, but perhaps there is an explanation that relates to the classification of track into the various categories.

John Thomas: That may well be the case. You highlight the importance of a thorough and robust consultation exercise by the ORR.

The Convener: We will probably need to clarify the issue with Network Rail and the Executive when we hear from them in due course.

Fergus Ewing: Indeed. It is just a shame that we have to take up time with such points, which the Executive should have clarified beforehand.

Moving on, I am told by the clerks to the committee that the Ernst & Young report is not in the public domain yet, despite the fact that you said that it was signed off on 20 December and that you have seen it. To clarify the position, I point out that we have not seen the report because it has not been put into the public domain. John Thomas said certain advice was given to Ernst & Young about equated track miles, and I think that Tim Martin said that if that criterion was employed a figure of more than 10 per cent would arise.

John Thomas: I do not want to get hung up on the point about equated track miles, which was just an example of some of the comments that we provided to Ernst & Young while it was compiling its report. It looked at a range of factors.

Fergus Ewing: I understand that. Perhaps I understood Mr Martin wrongly—I think that it was Mr Martin who commented on the matter earlier. Were you advocating that that particular criterion should be used or were you simply listing it as one of the possibilities?

Tim Martin: We were simply commenting that it was another possibility.

John Thomas: We were not advocating that measure.

Paul McMahon: On the level of expenditure on maintenance, renewals and operating costs in Scotland, Network Rail is spending about 9.5 to 9.7 per cent, as I mentioned earlier. The track kilometre breakdown gives us a figure of 13.3 per cent, which struck us and Network Rail as an outlier, given the overall range of financial expenditure values. The question is whether those levels of financial expenditure are in a steady state. If they are, that could be a strong basis for disaggregating the regulatory asset base to Scotland. From our perspective, that is a good reason to ask why track kilometres were used.

Network Rail will obviously explain its position, but it suggested that vehicle kilometres—the distance that is travelled by trains—would be an appropriate metric. From memory, that gives a figure of about 9 to 9.5 per cent, which is quite close to the levels of expenditure in Scotland at the moment. That gave us further justification to question the use of track kilometres. We suggested that using equated track miles is a slightly more sophisticated way in which to deal with track; we threw that into the ring as an appropriate metric that Ernst & Young might want to consider in its analysis.

Fergus Ewing: So you did not recommend or advocate a particular criterion. You simply gave Ernst & Young an opinion on the variety of criteria that could be employed. Could you share that document or series of documents with us?

John Thomas: Yes—no problem. We provided comments throughout the exercise and we can certainly share them.

Fergus Ewing: To go back to the principle of the thing, your argument, as I understand it, is that 10 per cent is fair because that is a reasonable assessment of Scotland's share of the costs. Is that right?

John Thomas: I do not think that we said that 10 per cent is fair.

Fergus Ewing: I thought that Tim Martin began by making remarks to that effect and that 10 per cent was not out of the ballpark.

John Thomas: That is right. It does not appear to be out of the ballpark.

The Convener: I think that you also used the word "reasonable".

Tim Martin: Yes.

Fergus Ewing: It is reasonable but not necessarily fair. Is that it?

John Thomas: We have to include the caveat that we need to undertake a more thorough exercise and further consultation before we come to a final decision.

Fergus Ewing: You have not done that work so you do not know how efficient or inefficient we are in Scotland, and you certainly do not know what the assets are worth. There are a lot of things that you do not know.

The Convener: We need questions at this stage, Fergus, rather than speeches.

Fergus Ewing: If I may, convener, I will come to what I think is a critical point. Surely the two Governments, in determining how the resources should be allocated between them, should not have considered simply what has been spent. One could argue that, historically, spending has been woefully inadequate on both sides of the border compared with spending in other countries in Europe, or that companies have been hugely inefficient since privatisation. Surely an audit of need—in other words, what is required to bring the rail infrastructure in Scotland and England up to a higher standard—is another criterion that, in terms of high policy, should at least have been considered. Was that one of the criteria that you communicated to Ernst & Young?

Tim Martin: In a sense, the need is the figures that have been projected by Network Rail for spend in the current control period.

Paul McMahon: The need is based on the national-level outputs that were determined as part of the access charges review. Those are the outputs and baseline in respect of need.

Tim Martin: Those figures show the need as we go forward; they show what Network Rail said that it will need to spend.

Paul McMahon: The need at the next access charges review, which will be concluded in 2008, may well differ in both England and Wales. Of course, in Scotland, the need will be based on the high-level output specifications that Scottish ministers will produce.

The Convener: May I—

Fergus Ewing: I have a final question, convener. Everyone is getting quite a good shot today, and I would not—

The Convener: I am sure that you will get your fair share of questions.

Fergus Ewing: One point that has been made is that, under the proposals that are before us, the Scottish Executive will be the paymaster, if you like, but the Railways Bill, as introduced, seems to allow the Executive absolutely no power, legislative control or influence over how Network Rail operates and how it spends the money. We have spending power, but no responsibility—I am sure that we all remember whose prerogative that was once said to be. How can we have any influence over Network Rail under the current system, when it is not at all accountable to the Scottish Parliament, despite the fact that the Scottish Executive will pay for Network Rail's Scottish operations?

Tim Martin: You will say what you want—that is where you have power. You have the power to determine what you want in respect of the railway, and Network Rail must provide that. We will say how much that will cost, and you will ask whether you can afford it. Your requirements are encapsulated in what is known as the binding arrangement. Your high-level output specification will become the outputs that are funded by the review. Following that, Network Rail must deliver those outputs for the money. There will be a binding arrangement, which we would describe as a reasonable requirement of the funder—which is the Parliament—and it will be up to the ORR to enforce that binding arrangement on your behalf.

Fergus Ewing: So we are in your hands, gentlemen.

Tim Martin: What is envisaged for the mechanics of the binding arrangement is delivery of outputs enforced by ORR. A separate information-flow arrangement is being discussed between the Scottish Executive and Network Rail, and that will be monitored both through the ORR and directly.

The Convener: You and the Scottish Executive's document use the term "binding arrangement" between Scottish ministers and Network Rail. Is that arrangement different from a contract in any way? If not, why is there not simply a contract between Scottish ministers and Network Rail that is enforceable by law?

Tim Martin: For various reasons, Governments have decided that they do not want a direct contractual position with the infrastructure provider. They want to maintain independence and to move away from direct control, which has a number of implications for public funding. Having enforcement from an independent regulator, according to a set of established criteria, is regarded as fulfilling that need better than a direct contract would. There were contracts with the Strategic Rail Authority but they were not regarded as the best way of implementing the requirements. I think that that was one of the reasons why the rail review was held.

16:30

The Convener: Does a binding arrangement imply looser and more flexible accountability than that of a contract, and so perhaps less accountability from the Government's point of view?

Tim Martin: I would not say that the arrangement gives less accountability, but it preserves the independence of the various parties.

Paul Martin (Glasgow Springburn) (Lab): I want to ask about the autonomy of the ORR. Serious challenges will result from the Railways Bill and the Scottish dimension that we are discussing today. How will the structure of your organisation deal with the bill for the United Kingdom as a whole, and specifically for Scotland? Could there be a Scottish ORR?

Tim Martin: As I said, we have an advice and assistance role; a performance, enforcing and monitoring role; and an economic regulation role. Specific divisions will deal with each of those roles, so there will be some reorganisation. Our corporate strategy document will make that clear.

People in each of the divisions will concentrate on Scotland, but we do not propose to have separate offices; the size of our organisation means that that would probably not be cost effective. Throughout Great Britain, we have to keep down the costs to the public purse.

Paul Martin: The Scottish dimension will require additional monitoring. Can you assure us that that will be done carefully?

Tim Martin: Absolutely. We said in our most recent document—we will say it again in our next one—that we support the concept of more local accountability for Network Rail. That extends right across the UK. Customers have to be able to see what they are getting for their money. There will be much more local reporting; much more local commitment of outputs; possibly more local correlation between charges and costs; and, obviously, local consideration of the specification of outputs. We think that that will produce a much more efficient solution that ensures that the company meets the needs of all its customers and funders much better. We support that and will ensure that the arrangements within the divisions of our organisation fulfil that aspiration.

John Thomas: We hope that the document that we issued in September following the finalisation of the white paper, and the forthcoming corporate strategy document on which we are consulting, will clearly show our commitment to ensuring that all the proposals in the white paper work, including the proposals concerning devolution. The forthcoming document is a consultation document and any comments or suggestions will be gratefully received.

The Convener: That brings us to the end of our questions. I thank Tim Martin, John Thomas and Paul McMahon. The session has been intensive, but it has been useful to the committee's consideration of the UK Railways Bill.

I welcome the next set of witnesses, who are from Network Rail, for further consideration of the devolved aspects and financial impact of the bill. The witnesses have been given a copy of the Scottish Executive's statement that was published today on the bill's financial impact on Scotland, which has probably by now been the subject of an announcement by the Secretary of State for Transport, Alistair Darling. I ask the witnesses to comment on that document in their introductory remarks. It would be useful to have Network Rail's initial response on the adequacy of the document in relation to the Executive's ability to support railway investment in Scotland.

I welcome to the committee Ron Henderson, who is the group finance director for Network Rail; Paul Plummer, who is the director of corporate planning and regulatory affairs for Network Rail; and Ron McAulay. I do not have Ron McAulay's job title. Are you regional director for Scotland?

Ron McAulay (Network Rail): Route director for Scotland.

The Convener: I apologise for the fact that we are overrunning slightly. That is partly the result of the late release of information concerning the financial aspects of the UK Railways Bill, which are a major part of the committee's interrogation of the powers that are to be passed to Scottish ministers and their ability to deliver on their aims and aspirations for the railway industry in Scotland. I invite Ron Henderson to make some introductory remarks.

Ron Henderson (Network Rail): I apologise on behalf of John Armitt, who would have liked to attend the meeting. I understand that he appeared before the committee last year, but today he had other obligations.

We are pleased to be here. In the past few months, we have spent a considerable amount of time dealing with the rail review. We support more devolved decision making and have worked with the Department for Transport, the Scottish Executive and Ernst & Young on the issue for the past couple of months. The Scottish Executive rail review paper appeared just as we were waiting to come into the room. However, although we have not seen the numbers before, we have spent a great deal of time working with those who put together the document. Our initial examination of the document suggests that it is reasonable from Network Rail's perspective. Obviously, we will have to double-check some of the numbers. As members probably know, some work remains to be done on the regulatory asset base. However, we are satisfied with the structure and direction of the agreement. Rather than talk for too long, I would be more than happy to answer the committee's questions.

The Convener: Thank you. I am sure that you will have plenty of questions to answer, if the previous session is anything to go by.

You say that the figures appear to be reasonable. Presumably, you are referring especially to the figure of £302 million for Network Rail's regulatory asset base in Scotland. It is indicated that, broadly, that is a 10 per cent allocation of the overall RAB for GB.

I want to be absolutely clear on this point. In its paper, the Executive states:

> "The £302m sum takes into account track access income from cross-border passenger and freight operators."

The answer to a question that I put to the ORR suggested that the figure also takes account of track access charges from ScotRail. Can you clarify whether that is the case?

Ron Henderson: I understand that it takes such charges into consideration. The income from ScotRail and the other revenue-generating sources is included in the sum, rather than in the figure of £302 million, which is the shortfall.

The Convener: That is the point that I was seeking to establish. It was not entirely clear from the answers that I was given earlier whether the income from ScotRail was included in the sum or the shortfall. What track access income does Network Rail receive from ScotRail in the current financial year?

Ron Henderson: Last year, total track access charges from all train operators in Scotland were about a couple of hundred million pounds.

The Convener: The statement that you submitted to us gave the figure of £191 million.

Ron Henderson: That is it.

The Convener: Would that £191 million be broadly in addition to the £302 million?

Ron Henderson: Yes. That is plus £9 million from freight on the statement that you have, as Ron McAulay pointed out. There is the £191 million and £9 million from freight. That is the income from the train operators. In addition to that, there is the £302 million that we talked about earlier.

16:45

The Convener: We talked to the ORR witnesses about many of the criteria that could be used for determining the appropriate share of expenditure in Scotland as a proportion of the GB expenditure. We talked about the length of track, the usage of track and the types of train that are used on different types of track in Scotland and elsewhere. We also talked about whether the type of infrastructure, such as bridges, might be significantly different in Scotland and in other parts of the UK. The Scottish Executive and the UK Government have come to the broad figure of 10 per cent as a reasonable share of the resources. What is your assessment of that?

Some people have raised the issue about track, and the information that you have provided suggests that Scotland has about 13 per cent of the track. Does that take into account the differences between Scotland and England, whereby many tracks in Scotland are single track and many tracks in England, especially southern England, are twin track, four track or eight track? How relevant are the figures and why does the figure of 10 per cent seem reasonable?

Ron Henderson: Unfortunately, that is not straightforward and there is no one answer. One can look at a number of parameters, one of which, obviously, is track miles. We talk about equated track miles, passenger miles and freight miles, and about the capacity and capability of the different routes. If a range of such things is considered, Scotland's share tends to be somewhere between 7 and 12 to 15 per cent. Without doing a great deal of detailed analysis, we are saying, simply, that 10 per cent seems reasonable. Paul Plummer can give you more information.

Paul Plummer (Network Rail): One of the key principles must be that we try to proxy in a simple way to measure the future and on-going expenditure needs on different parts of the overall network. One needs to look at a number of different proxies to try to capture that. If simple track miles are used, given the different nature of track miles in different parts of the network, one will probably be at the upper end of what might be regarded as a plausible range of numbers. A figure of 10 per cent feels as if it is in the centre of that plausible range, but the committee will detect from the sort of language that I am using that, in relation to the allocation of the initial RAB, it is not a pure science. A figure needs to be determined. One of the important things is that the RAB is calculated based on the right forward-looking assessment of expenditure in Scotland, compared with the rest of Great Britain. On the basis of all the measures that can be looked at, 10 per cent feels like the centre of the plausible range.

The Convener: When you consider forward-looking projections of expenditure, does that take account of the relevant condition of the assets in various parts of the UK?

Paul Plummer: Absolutely. We prepare our business plan and expenditure projections based on assessment of the condition of the assets—not just track, but other assets—and we decide how to prioritise that in order to deliver the overall outputs that we are required to deliver. Clearly, as we move forward, those overall outputs will be specified at a more disaggregated level. We are developing our route plans so that we can do that more effectively than has been the case in the past.

The Convener: I have a final question. Among the documents that you provided before the meeting was a statement of investment versus revenue for 2003-04 for Network Rail in Scotland. That statement shows a total investment of £312 million, with £99 million for maintenance, £139 million for renewals, £17 million for enhancements, and so on. My recollection from previous Network Rail statements is that higher figures than that total of £312 million have been quoted for current expenditure in Scotland. Are there other areas of expenditure that are not included in that figure or are there areas of expenditure, for example in 2004-05, that have risen from the 2003-04 figure?

Paul Plummer: The main item that is excluded from that figure—it is in the other figures that you have seen and the figures that Ernst & Young has been using based on our plans—is the west coast route modernisation figure for the part of the route that is in Scotland. That is not in the figure in the statement, but it is in the Ernst & Young analysis.

The Convener: We project an income for Network Rail in Scotland of approaching £500 million per annum. If the on-going investment is £312 million, and given that the west coast main line modernisation is not an on-going commitment, where will the expenditure be used up?

Paul Plummer: In addition to the expenditure, the return on the regulatory asset base needs to be included in deriving the income, as well as the depreciation, which you can take as a proxy for the renewals. We are not quite comparing apples with apples. You are right to say that, once the modernisation of the west coast main line is complete, that area of expenditure is expected to diminish, but expenditure will be required in other areas. We will develop our longer-term plans, which we will publish in March, and over the next year or so we will develop our route utilisation strategy with the Scottish Executive, which will provide much more detail about the longer-term projections.

The Convener: This is my final question—sorry, I said that before, but I promise that it is true this time. What has the profile of expenditure on maintenance and renewals been like in recent years in Scotland? Perhaps you could take us back to the period of privatisation through to now. Is such expenditure at a high in relation to both cost and the miles of track that are maintained or renewed annually?

Ron Henderson: Expenditure in relation to operating costs and maintenance costs in Scotland has followed a similar trend to that for the rest of Network Rail. The costs of maintenance almost doubled between eight years ago and last year. Operating expenditure has not increased quite as much as that, but there have been significant increases. The situation in Scotland is no different from that which has been experienced throughout Network Rail.

The renewals figure has increased significantly in the past two and a half years. It is fair to say that everyone acknowledges that the investment in renewals in the network across the board was inadequate and it has been increased significantly in the past couple of years and will continue at a higher level for the next five years.

On the renewal trend, I do not believe that there is any difference in Scotland compared with the rest of the network. To answer your question, the trend in Scotland is the same as that throughout Network Rail in relation to past expenditure.

The Convener: Do you have a guide to the rate of increase in renewals as a result of that expenditure? I am trying to get at whether the additional resource is shown through the same sort of proportionate increase in the kilometres or miles of track that are renewed.

Ron McAulay: It is interesting that last time we appeared before the committee, last January, John Armitt said:

> "During the early years of Railtrack, there was … up to about 400 miles being renewed per year."

That was across the UK. He went on to say:

> "During the past couple of years, we have been renewing at the rate of about 800 miles per year."—[*Official Report*, *Local Government and Transport Committee*, 20 January 2004; c 589.]

Fergus Ewing: Mr Henderson said that discussions between Network Rail and the Scottish Executive have been going on for a couple of months. Has agreement been reached between Network Rail and the Scottish Executive on what constitutes the rail infrastructure in Scotland, by which I mean things such as track kilometres, bridges, tunnels, viaducts, stations, level-crossings and signal boxes? Have you reached common ground with the Executive on what defines the Scottish rail infrastructure?

Ron Henderson: I will ask Paul Plummer to answer that, but it would be fair to say that there is not an inventory of bridges to be ticked off. We are talking about the asset base that Network Rail owns within Scottish boundaries, which is the track, signalling, land, bridges and viaducts.

Paul Plummer: In our discussions with the Executive, which have been going on for a bit longer than Fergus Ewing suggested, there has been no controversy about the nature and scope of the network—it is the whole of Network Rail's network in Scotland.

Fergus Ewing: The reason for my asking the question is simple. Just before the start of the meeting, we received information from you. Under the heading "Key facts and figures on the infrastructure in Scotland", the first statistic is that there are 4,140 track kilometres. However, the figure that we have from the Scottish Parliament information centre, which is sourced from the Scottish Executive, is that the total track length is 5,489km. That is a substantial difference. There may be an explanation for that and I will ask the Scottish Executive about it, but can you cast any light on that major discrepancy?

Ron Henderson: No, although I am sure that there is a sensible reason. The Executive may include track mileage that we do not include in our figure, such as that in depots. I am not entirely sure, but I am fairly confident that the figure that we gave is the one that we use.

Fergus Ewing: Okay, but I will ask the Executive about the issue later on, believe you me.

Ron Henderson: We will verify the figure.

The Convener: When we talk about the length of track, are we talking about route kilometres or about the total kilometres of track? For example, is twin track counted twice?

Ron McAulay: That could well be the reason for the discrepancy in the figures.

The Convener: My question is about your figures: are they based on route kilometres or total track kilometres?

Ron Henderson: We think that they are for the total kilometres of track.

Fergus Ewing: As ever, I will help the convener by pointing out that the information that was sourced from the Executive is that

"Scotland's railw ay netw ork … has 3,034 route km w ith a total track length of 5,489 km".

Therefore, twin track cannot be the explanation for the difference. In any event, the matter is a factual one.

Ron Henderson: We will clarify it.

Fergus Ewing: Did Network Rail propose a specific method of dividing the cake or allocating the money?

Paul Plummer: We had a lot of discussion with the ORR and the Executive and its advisers, but the methodology was pretty uncontroversial. To determine our overall income, the ORR established a building-block methodology that is dependent on the amount of expenditure, the regulatory asset base and the return. That methodology was used entirely consistently in the work that Ernst & Young did to split our overall revenue requirement between Scotland and England and Wales. To do that, assumptions must be made about expenditure. In many cases, we have local projections of expenditure in Scotland, but in some cases it is necessary to apply allocation rules to work out the amount of GB expenditure that should be attributed to England and Wales. For example, some corporate overheads need to be allocated. We discussed with Ernst & Young, the ORR and the Scottish Executive the various rules that should be applied in relation to those costs and there was a pretty clear consensus about the sensible rules that should be used to do that.

17:00

Fergus Ewing: Will you clarify what basis Ernst & Young and the Executive used for the allocation?

Paul Plummer: In relation to the items of expenditure for which we can identify expenditure in Scotland, it is very straightforward—that is the amount that is allocated. In relation to the bits that cannot be identified because they are by their nature overheads, allocation rules would need to be used. Those rules would be applied and consistency would be auditable and it would be reflected in our accounts. There would be total transparency about the results, so that the rules could be applied consistently by the regulator at future access reviews.

Fergus Ewing: What I am driving at is that the figure that has been arrived at is 10 per cent. Mr Henderson said that that figure felt right. With respect, to say that a figure feels right, within a range of 7 per cent to 13 per cent—which Mr Henderson also mentioned—does not seem to me to connote a clear scientific methodology. I will not use the words "fag packet", but the figure seems to be more of a guesstimate than a method of allocation that has arisen from a clear and demonstrable process of rational analysis.

Paul Plummer: For clarification, we are talking about Network Rail's overall revenue requirement and how it is allocated between Scotland and England and Wales. A view needs to be taken on a number of different elements in order to get to the total. Some of the elements are factual; for example, whether it is planned that the money be spent in Scotland or in England and Wales. That is straightforward. Such elements cover the vast majority of the overall revenue requirement. There are other elements to which some rules need to be applied, but not necessarily the 10 per cent rule that we discussed earlier in relation to the RAB. More detailed consideration would be required on what drives some costs and on what the sensible basis would be for those costs that are clearly related to head count. It is only in relation to the initial RAB that the 10 per cent figure is applied.

Fergus Ewing: I understand that the work on assessing the regulatory asset base has yet to be done by the ORR—with input from yourselves, no doubt. That will be the key calculation, but it has not been done.

Paul Plummer: That is correct.

Fergus Ewing: Can it be argued that the difference between spending on maintenance and spending on enhancement is pretty important? Is it possible to argue that Scottish track access charges have already paid for a proportion of enhancements in England—such as the upgrading of Leeds station or the southern region power upgrade—that have little or no direct benefit in Scotland? If so, how has that been taken into account by the Governments in their allocation of cash? Have we been debited with a charge that does not really benefit Scotland?

Ron Henderson: I am not clear about why you said what you said about access charges. Are you inferring that access charges in the past have paid for the things that you mentioned?

Fergus Ewing: Yes.

Paul Plummer: All the analysis that has been done has been—I think quite rightly—forward looking. The only bit that needs to be backward looking is on the initial allocation of the RAB. In the past, we had a completely different arrangement for how the outcome of the ORR's reviews of our revenue requirement was passed through from train operators to the Government and for how its impact was dealt with. I find it difficult to see why you would want to look backwards in taking that view.

Ron Henderson: It is worth pointing out that, in any case, track access was across the network. That has not covered the costs of maintenance, opex or renewals, never mind enhancements. However those have been paid for, the money has probably come from the Department for Transport.

The Convener: I will come back to Fergus Ewing if he is not finished, but I ask you to clarify whether phase 2 of the channel tunnel rail link is part of the forward commitments that will be part of the overall assessment, and whether the channel tunnel rail link is a Network Rail asset.

Ron Henderson: No. That rail link is nothing to do with us.

Bruce Crawford: On forward spend—

The Convener: I will go back to Fergus Ewing just now and come back to you, Bruce.

Fergus Ewing: To follow on from the convener's point, the chunnel is not taken into account and I presume that the London underground is not taken into account.

Ron Henderson: That is correct—they are not taken into account.

Fergus Ewing: Is that because they are not your responsibility?

Ron Henderson: Correct.

Fergus Ewing: The huge amounts of money that have been put into crossrail in London and the Jubilee line are not taken into account for your purposes because they are not your statutory responsibility.

Ron Henderson: Correct.

Fergus Ewing: I hope that you do not mind my clarifying that, Bristow; you opened the door.

The Convener: I was talking about the channel tunnel rail link, not things such as the London underground, which is clearly different.

Fergus Ewing: Oh, well—we have clarified the point.

We have just heard from the Office of Rail Regulation that Network Rail is 31 per cent inefficient. Does Network Rail agree with that?

Ron Henderson: No. Network Rail came into being two and a bit years ago, and I have already explained that expenditure had escalated significantly over the previous six years. From the initial work that Network Rail did, it was clear that there were things that could be done more efficiently throughout the organisation, whether through better planning or better use of resources. We identified that we should be able to produce the outputs that the SRA sought at that time for some 25 per cent to 28 per cent less cost. We had a debate with the regulator and finished up at 31 per cent.

There is room for significant improvement and efficiency, but the task is challenging because Network Rail is a big organisation and there is a lot to do. However, in any organisation, there is room for efficiency—whether it is 10 per cent, 15 per cent or more—and improvement. We have quite an opportunity to deliver the 31 per cent improvement.

Fergus Ewing: If Network Rail's inefficiency level is not 31 per cent, what is it?

Ron Henderson: The 31 per cent is the amount of efficiency improvement that we have undertaken to deliver by the end of the current control period. We already have clearly thought out plans for some 23 per cent or 24 per cent of that and we are talking about getting there by the end of the control period. We have a number of efficiency initiatives in train. We have invested in various high-output balance cleaners and more mechanisation—we do a lot more using technology and train measurement systems than was the case at the beginning—so there are many opportunities for us to deliver efficiencies. I would not, however, start from the premise that we are 31 per cent inefficient at the moment.

The Convener: Would it be fair to say that a number of the efficiency savings that you are now making are savings on Railtrack's position, and that many of what Fergus Ewing described as "inefficiencies" were not created by Network Rail, which is a relatively young organisation?

Ron Henderson: Yes—that is absolutely right. Our starting point was the expenditure that Railtrack incurred just prior to coming out of administration.

Fergus Ewing: We all know that it was Railtrack what done it. Are you saying that you accept that the 31 per cent must be delivered, but that you do not agree that it is the correct figure?

Ron Henderson: No. The figure might well be 33 or 34 per cent; on the other hand, it might be 29 per cent. The 31 per cent figure was established using various comparisons with Europe and consultants' advice on various parts of the business. The number was not simply plucked out of the air. In any case, Network Rail now has to deliver it.

Fergus Ewing: I see. As I understand the bill's proposals, you will have two paymasters—Her Majesty's Government and the Scottish Executive. The Scottish Executive will be responsible for paying for Network Rail in Scotland. However, the bill does not contain any mechanism or method of direct scrutiny that allows the Executive or the Scottish Parliament to hold you to account for your activities, operations and costs. Is that also your understanding?

Paul Plummer: The position in Scotland is directly parallel with that of the Department for Transport in England and Wales. In each case, the regulator will set our income on the basis of the efficiencies that we should be able to achieve. We either accept or reject that figure. In each case, once the income is set, the regulator will take a view on whether we are doing enough to achieve those efficiencies, and can take steps if we are not doing enough. In each case, I would expect that, if the paymaster—to use Fergus Ewing's phrase—is not satisfied that we are doing enough, it will make representations to the ORR that it should do something about the situation.

The Convener: I said that I would come back to Bruce Crawford for a supplementary question.

Bruce Crawford: I will come in when my time comes. I will simply say now that I would like time to ask my question at some stage.

David Mundell: I wonder whether Ron could set out for us how Network Rail is organised in relation to its activities in Scotland.

Ron McAulay: This Ron or that Ron?

David Mundell: Mr Henderson could answer the question first.

Ron Henderson: At Network Rail, we were very concerned about our level of customer service and standardisation and about how we carried out our duty across the country; indeed, those aspects formed one of the efficiencies that we discussed earlier. As a result, we reorganised the business on a functional basis primarily to ensure that there was one main contact with each of our main customers—in other words, the train operators. Scotland was, to some extent, ahead of that reorganisation, because it already had a similar structure. However, the whole company is organised to be much more customer focused than it ever was in the past.

Network Rail is also now structured to be much more efficient. For example, we are standardising our ways of working and we are using the most efficient methods, which we are spreading to other parts of the network. That holds true for maintenance and renewals. Perhaps Ron McAulay will detail how that approach affects Scotland specifically.

Ron McAulay: As far as day-to-day operation is concerned, such an approach does not make a huge difference in Scotland. After all, Scotland worked as one team to deliver services in the past and continues to do so. That said, we are benefiting from standardisation of maintenance and renewals that is being introduced, as Ron Henderson mentioned, and from the economies of scale that will be achieved through the buying power of having one maintenance team consider the most efficient way of hiring plant and delivering the maintenance process. I hope that such an approach will not make a huge difference to the customer, but will allow me to focus more on First ScotRail's needs and demands and to continue to develop a good working relationship with it.

17:15

David Mundell: Within that, how autonomous are your activities in relation to the overall Network Rail operation?

Ron McAulay: I work for Network Rail and I have no problem with following the Network Rail approach to how we deliver the service—it should be one company and one way. Within that, I am able to ensure that we deliver the service that ScotRail is looking for in Scotland.

David Mundell: Without going into the politics of the matter, may I ask whether that would be an argument for not doing what is set out in the Railways Bill? You are making an argument in relation to the organisation of your company that appears to run contrary to the direction of the bill, which is actually to devolve the arrangements to Scotland.

Ron Henderson: No, I do not think so. Scotland could get the benefit of both worlds because there has been an enormous amount of effort in Network Rail to try to seek out the most efficient way of doing business consistently across the network. As I said, we have put significant investment into track inspection systems, track inspection trains and automated sleeper and rail renewal. Scotland will benefit from all that sort of stuff.

Ron McAulay: Scotland does benefit.

Ron Henderson: Yes. Scotland does benefit. Therefore—the way I look at it—Scotland is getting the benefit of a devolved organisation, in terms of its being responsive to customers' requirements, and it is getting the benefits of the national structure.

David Mundell: Do you intend to make modifications to your organisation if the bill is passed?

Ron Henderson: Do you mean in Scotland?

David Mundell: I mean in Scotland and across the United Kingdom.

Ron Henderson: We will make modifications. Paul Plummer might want to touch on that.

Paul Plummer: There will be a number of changes, many of which have been or are being implemented. The new structure that Ron Henderson described anticipates many of the changes in terms of focusing much more on the customer. The main changes beyond that are in three areas. The first is around performance management. We are trying to move much more towards an approach in which we work more closely with the train operators to deliver performance improvements, through working on the ground locally with them and developing joint performance improvement plans and integrated control centres, which we believe is the way forward in achieving greater performance. There is consensus about that now.

The second major area is around planning. As I mentioned a while ago, we are trying to improve the basis of our route plans so that increasingly they underpin our overall planning process. That is a major change across the whole of Great Britain. The route utilisation strategies that the SRA used to do will be done as part of that process. In relation to Scotland specifically, we have been discussing with the Executive how we will work together on the route utilisation strategies, which will define what we are trying to deliver on the network at local level much more precisely than has been the case. Therefore, there are organisational changes around that.

The third area is enhancement projects. We have recognised the need to improve how we work with stakeholders—be that the Department for Transport, the Scottish Executive or other funders—for enhancement of the network. There are changes around that. However, all the changes are refinements of the major reorganisation that the company introduced in May last year.

David Mundell: Just to be clear, within the organisation you will have an appropriate interface for the functions that are being transferred to the Scottish Executive from the SRA.

Paul Plummer: Absolutely.

David Mundell: Does that have any resource implications for you?

Paul Plummer: It has no major resource implications.

Iain Smith: On the key facts and figures that you circulated earlier, I was surprised by the relative proportion of bridges, tunnels and viaducts that there appears to be in Scotland—it is 35 per cent of the total. I estimate that that is roughly one every 300m. I am sure that there are not quite that many bridges. Can you go over that figure and say what is defined as a bridge, a tunnel or a viaduct when you make those calculations?

Ron McAulay: They will range from ones such as the Forth bridge—

Iain Smith: I know that one.

Ron McAulay: That is an obvious one. They will range from the Forth bridge through to small bridges over a pedestrian underpass that goes underneath the railway. I can think of one in the Lambhill area, which is at the opposite extreme from the Forth bridge. The number of bridges, tunnels and viaducts reflects the topography of Scotland.

Iain Smith: I will take your word for that.

On the devolution issue, I recollect that when Network Rail gave evidence to the committee on a previous occasion it was against the idea of greater devolution. One of the arguments that was put forward was that in the event of a major emergency—such as a landslip or something like that—because it is part of the UK organisation it has the resources to deal with that, whereas it may be necessary in Scotland, within a relatively limited budget, to find £50 million to do a major emergency bridge replacement or deal with a landslide. What is your view on the financial settlement and how it will deal with such situations? Are you concerned that the financial settlement may leave you unable to deal with a major emergency bridge replacement?

Ron McAulay: I will let Ron Henderson answer the bulk of the question. I do not think that we suggested the last time that we gave evidence that we were against devolution. We were concerned about how devolution of powers would be introduced; we were not against that devolution.

Ron Henderson: I do not see anything in the information that I have now and in the debate that we have had that would hold us back from doing our job. We are employed to deliver the outputs that you and the department agree for the cost that the regulator comes up with. In the course of a control period, I could see that something could go wrong in Scotland or Wales that would require a disproportionate financial effort in that year to remedy the situation, but I do not see anything in what we are trying to do here that would prevent our doing that. If something required additional resource for a year or whatever period, we would direct resource to it in order to deliver the outputs. Over the course of a five-year period, such things would probably even out. If they did not, that would be reviewed at the next interim review with the regulator. There is nothing that gives us reason to worry about our ability to do our job.

Iain Smith: I will put the question in a slightly different way. If a major emergency occurred that required a large sum of expenditure that was not normally budgeted for, do you consider that that would not result in a disproportionate reduction in normal maintenance and renewals in Scotland?

Paul Plummer: The precise way in which that will work needs to be discussed further with the ORR and the Scottish Executive Enterprise, Transport and Lifelong Learning Department. We are clear that there needs to be some flexibility so that we can manage such matters. At one extreme, it would not be sensible to limit the amount of expenditure on one part of the network in each individual year. How far we go in having the flexibility to manage things between years and between different parts of the network needs to be discussed.

We think it important that we have the flexibility not just to deal with such emergencies but to be able to manage the business in a way that enables us to achieve efficiencies and to deliver value for money in England and Wales and in Scotland. Management flexibility is important within the bounds of delivering the required outputs in Scotland and in England and Wales.

Tommy Sheridan: I have a question about the paper that you presented to the committee for today's meeting. What was the level of revenue from track access charges throughout the UK in 2003-04?

Ron Henderson: This does not quite answer your question, but in the current year the figure is about £1.6 billion.

Tommy Sheridan: What is your expenditure in Scotland as a percentage of your overall Great Britain expenditure? I would prefer the 2003-04 figure for comparison, but if you do not have that, what is the current figure?

Paul Plummer: Sorry, the—

Tommy Sheridan: What is your current expenditure in Scotland as a percentage of your overall GB expenditure on maintenance, renewals and enhancement?

Paul Plummer: It is of the order of 10 per cent.

Tommy Sheridan: I ask because we have had a discussion about the asset in Scotland. If we are to move to devolution of rail investment, we will obviously have to identify what the asset is. The figure that you give in relation to passenger access charges is £191 million, so I would have expected your overall British figure to be about £1.9 billion. It seems that, proportionately, we are providing more revenue from that source than is the case at UK level. We also have significantly fewer employees in Scotland than your 10 per cent figure would suggest. You say that you have 30,000 employees throughout the UK but only 2,200 in Scotland. I am worried about the 10 per cent figure because it seems that the truth is that we are not getting our 10 per cent.

Just so that I am clear—arithmetic was never my strong point—I move on to ask about expected income, given today's Scottish Executive paper. According to your paper, in 2003-04 you had revenue of £200 million and expenditure of £312 million, which leaves a shortfall of £112 million, given what you were spending, or wanted to spend, and what you raised. The Executive paper indicates that we have to have a transfer of £302 million per annum in relation to the RAB equation, which would give us a level of revenue of £502 million compared with a level of investment of £312 million. Are you telling us today that there will be several hundreds of millions of pounds of planned investment to match that extra revenue?

Ron Henderson: There are a couple of issues. As I think we said earlier, the renewals figure will go up as we move forward, because some of the renewal work on the west coast main line during the next two or three years will be included in it. In addition, it is fair to say that we get a return on the RAB, which helps to pay for our financing, our interests and so on. The return on the regulatory asset base—whatever the figure is—is a cost going forward.

17:30

Paul Plummer: The figure is 6.5 per cent.

Ron Henderson: The figures for future renewals on the west coast main line and the return on the regulatory asset base must be included in the figures, which of course do not include any allocation of central overheads or costs. The numbers are simplistic and were intended to give the committee an idea of the expenditure that we incurred directly in Scotland in 2003-04. They do not take into consideration the financing of the company or future renewals on the west coast main line, which will push the renewals figure nearer to £220 million—if my memory serves me correctly.

Tommy Sheridan: Our problem is that the figures are the only ones that we have. They might be simplistic, but we must work on them to try to build up a picture of the breakdown for what will in effect be Network Rail Scotland, for want of a better title.

Ron Henderson: Frankly, I think that the information is inadequate to enable you to make such an assessment. The numbers are indicative; we were just trying to give the committee an idea of the numbers. Members should also remember that the figures relate to 2003-04; I guess that you are most interested in expenditure in the years ahead, not in past years. The past is not of great relevance to you.

Tommy Sheridan: If the level of expenditure is around the 10 per cent mark, as you say, and the track access charges from Scotland in one year are £191 million but about £1.6 billion across the UK, it seems that Scotland is not getting the same level of investment pound for pound in relation to the track access charges that are generated here. That is why past investment is important; we must compare the past figures with future investment. Given what you said, it looks as if we have not been getting a fair deal.

Paul Plummer: In addition to its income from access charges, Network Rail receives a grant from central Government. That makes an enormous difference to the percentages that you are talking about.

Tommy Sheridan: With the greatest respect, one of the arguments about Network Rail's very existence is the organisation's need for very large subsidies. Obviously, the privatisation of the network was a disaster. I am comparing the levels of expenditure, pound for pound, for Scotland and the UK and your figures seem to indicate that we do not receive the level of expenditure that might be expected, given the input from Scotland in track access charges.

Ron Henderson: The level of expenditure on opex, maintenance and renewals is designed to maintain a certain level of ability on the part of the network to deal with the track. That is what drives maintenance, renewals and operating expenditure. Frankly, on balance, the infrastructure in Scotland is certainly no worse than the infrastructure in the rest of the UK—I suspect that it is marginally better. Ron McAulay might comment on that.

Ron McAulay: I agree.

Ron Henderson: It is therefore a bit hard to argue that Scotland has not had its fair share in the past. I am talking not about enhancements but about keeping the basic infrastructure in a steady state.

Tommy Sheridan: The problem with your answer is that in the past our share of the reduction in rail network, usable track and stations, particularly in the north of the country, has been catastrophic. The overall investment in rail cannot be reduced to just renewals and maintenance. It has got to be about the future investment and expansion of rail. I am arguing that, on the basis of the statement and the figures that you have provided, we should be looking forward to quite significant improvement—not just renewals and maintenance—in the rail network.

Ron Henderson: Yes, but some of what you refer to was the result of past political decisions. I do not know how—

Tommy Sheridan: We are not holding you responsible for those decisions but, by the same token, we have to recognise what has happened. That is why I am saying that the past is important to the future. We are not starting from here. If the figures are in any way accurate, all that I am asking you to confirm is that Network Rail in Scotland will spend significantly more than it has been spending.

Paul Plummer: In the next four years, which is the remainder of the current control period that was set by the regulator, we will spend what needs to be spent in order to deliver the outputs specified in the review. We will be prioritising that spending across the whole network and delivering the outputs. That involves significantly more expenditure than there has been in previous years in Scotland. If the Executive wants to buy additional enhancements, we will discuss those with the Executive and deliver them as best we can. There may be additional money in that context. In future control periods, it will again be for the Executive to specify the outputs, which will be priced by the ORR. The amount may be more or less, depending on what you wish to buy.

Ron Henderson: We are still funded for this control period, whether we like it or not, for operations, maintenance and renewals of the network. Tommy Sheridan was talking about enhancements—about trying to get back some of the reductions in capability in the network that have occurred over the past 15 or 20 years. We are not funded to do anything on that front over the current control period. Even if Network Rail wanted to, we do not have funds allocated to that task. In our terminology, making enhancements means improving the network, putting more track miles down and so on, and I think that it is in that area that the answer to Tommy Sheridan's question lies. However, we are not funded to do that, unfortunately.

Tommy Sheridan: I hope that when you compare the paper from the Scottish Executive with your own paper, there will be room for you to examine whether the level of enhancements is adequate, given the level of Scottish funding. On the future renewals budget and expenditure for Scotland, however, you have taken an operational decision—for efficiency reasons, apparently, as we heard when John Armitt was last here—to bring the maintenance work in house. Why is there no similar decision in relation to the renewals budget, which represents even more expenditure?

Ron Henderson: Maintenance work and renewals work are quite clearly different beasts. Maintenance is much more an on-going, day-to-day activity. Renewals work lends itself more easily to a contractual arrangement in which we can specify precisely the amount and type of work that we want done, and when we want it done, and can agree a price for that.

Maintenance is not nearly so precise, because issues that we did not anticipate arise all the time. We are in the process of restructuring the contract arrangements that we have with our renewals contractors, to ensure that we get better value for money. The difference is that in renewals we can specify and be clear about what we want—we can agree the price beforehand and the renewals contractor can get on with the work. We must ensure that we do not start work before the work is clearly specified and agreed. One problem that we have had in the past is that we have started a project but changed the scope of it halfway through. The result is that costs go through the roof, as we all know.

By the middle of this year, we will have redone all our renewals contracts in all disciplines. We have not quite finished the first year of the new track renewals contracts, which are the first that we have let. We were seeking 8 per cent efficiency in unit costs and are on target to achieve that.

Tommy Sheridan: My final question relates to jobs. I hope that you will accept that it sounds confusing that a major company such as Network Rail, which knows what needs to be done, cannot employ people to do it, instead of employing outside contractors. In my view, efficiencies and economies could be made if you took renewals in house.

In response to questions from Fergus Ewing, you said that you have already identified 24 to 25 per cent out of the 31 per cent savings to which you referred. What proportion of those savings—if any—relates to jobs? Will the current figure of 30,000 employees decline significantly over the next two or three years? In particular, will the 2,200 employees in Scotland still be employed over the next period?

Ron Henderson: In the past couple of years, we have undertaken fairly significant restructuring of the business. We have brought maintenance in house, restructured as a functional organisation and taken out some jobs. I do not anticipate that there will be significant job losses in the foreseeable future or in the control period. That is not the basis of many of our efficiencies, which are related to much better planning and greater discipline in the way in which we execute our work and more automated, standardised processes throughout the business.

Bruce Crawford: Tomorrow we will discuss the Sewel motion on the bill and the legislative process. However, discussions about on-going costs and whether the RAB settlement is right for Scotland, fair and equitable will continue for some time. Can you provide us with the expenditure value of the maintenance and renewals contracts that have been carried out in Scotland since 1999? Can you also provide us with information on the on-going planned expenditure in Scotland until the end of the planning period? That would help the committee to get a fuller understanding of the exact picture historically and in the future. I know that for you the historical issue is not as important, but information on the on-going value of the asset might make a difference in the RAB negotiations. It would be useful if you could tell the committee whether you are able to provide that information.

The key facts and figures, broken down for GB and Scotland, that you have provided to the committee are useful. Is that the regulatory asset base? If it is not, what is missing or what should be added? It does not say that on the sheet. It may well be the regulatory asset base, but I just do not know. If it is not the regulatory asset base, can you tell us where the changes need to be for that purpose? If it is, can you put a cost next to each of those areas for Scotland and for the UK? That would be useful information for us, so that we can make our minds up about whether the settlement is fair and equitable.

I have another question that I want to ask, but I think that I will wait for an answer to those questions just now.

17:45

Paul Plummer: We provided an enormous amount of information on historical and future expenditure to the Scottish Executive and its consultants. That is all reflected in the work that they have done. We provided the historical information, where it was available, and we provided forward-looking information.

The Convener: The committee has not yet seen the report by Ernst & Young. If that information has been provided to the Executive as part of its analysis, would it be possible to provide the committee with copies of it as well?

Paul Plummer: There is an enormous amount of information that the Scottish Executive has collated in that report. We have had an on-going discussion with the Executive over a long period of time. To provide a snapshot of that would be—

Bruce Crawford: Maybe you could provide us with a copy extract from that report. That, at least, would be useful.

Ron McAulay: The information that has been provided has been provided over a series of interviews and discussions. It is not as if there is one single document showing all the information that we provided. I suggest that the best way to get hold of that information would be for the Scottish Executive to provide it to you.

The Convener: We will be pursuing some of those issues with the Scottish Executive. You can be assured that that is part of the scrutiny process. It seems reasonable to me that Network Rail should be able to provide that sort of information from its own resources, certainly for the period since it came into existence—not going as far back as 1999, because Network Rail did not exist then, but certainly for—

Bruce Crawford: Yes, but if Network Rail has inherited liabilities—

The Convener: Certainly for as long as you have been in existence and into the future, it would seem reasonable—

Bruce Crawford: Sorry, convener, but—

The Convener: Please do not interrupt me, Bruce. It seems reasonable to me that Network Rail should be able to provide that information for the period for which it has been in existence. I make that distinction because I do not know whether the recording of information is consistent between the Railtrack period and the post-Railtrack period. If the recording information is consistent, that should be provided as well, but I am not sure whether it is consistent.

Paul Plummer: The information is not consistent, which is why we spent quite a lot of effort with the Scottish Executive and with its consultants going through it and explaining it. They have been trying to make some adjustments to inform the work that they have done. We published the forward-looking figures in our business plan last year, but there are adjustments that need to be made, all of which have been done in the discussions with the Scottish Executive.

The Convener: Well, would it be possible to provide us with a snapshot of that on the basis of the question that Bruce Crawford initially asked?

Bruce Crawford: A copy extract from the report, if required.

Ron McAulay: The Ernst & Young report?

Bruce Crawford: Yes.

Ron McAulay: It is not our report to take extracts from.

Tommy Sheridan: What about your business plan, then?

The Convener: Can we work through the convener, please?

Ron Henderson: We can provide a copy of the business plan. Our only concern is that we finish up with a little bit of the debate that we had earlier, because the numbers might not be quite the same and there might be some adjustments to be made, and then we would end up explaining—

Fergus Ewing: We have heard nothing.

The Convener: Fergus, please work through the convener.

Ron Henderson: We can certainly give you the numbers that we have got, incorporating Scotland, from the business plan, but that is the last business plan. I am just concerned that we do not finish up causing more difficulty than we solve.

Bruce Crawford: Frankly, at this stage, some figures to give us something to chew on would be better than nothing at all. You have said that you could provide your forward business plan. Can you disaggregate that down into the forward on-going expenditure plans for Scotland, as compared with the rest of the UK? It may not be possible for us to do that disaggregation.

Paul Plummer: Yes, we can and indeed have done in those very extensive discussions with the Executive. We have no objection at all to the Executive providing you with any of that information.

Bruce Crawford: That is good. However, with respect, we do not know whether we will get access to that information. Until we have spoken to the minister or his civil servants, I am not in a position to know that I am going to get it. If the information is available in your business plan, you could provide it to us separately.

Paul Plummer: One of my concerns relates to the timescale. When would it be useful for members to receive this information? I understand that you want it now.

The Convener: Before lunch time tomorrow, I would think.

Bruce Crawford: It would be nice to have it by tomorrow. However, the RAB negotiations will continue for some time yet and I suspect that whatever we receive by tomorrow will not be valuable enough for us to examine the matter properly. However, whatever comes, whenever it comes, will be better than having nothing at all.

The Convener: Anything that the witnesses could give us would be useful. That said, I should tell Bruce Crawford and other committee members that I have received an indication that Executive officials will be prepared to answer questions on the Ernst & Young report. I take it that they will also be able to share information in the report with us. We can pursue the matter when the Executive officials come before us.

Bruce, do you have another question?

Bruce Crawford: Well, I have still not received an answer to my second question, which was about whether the witnesses can provide a comparative breakdown for GB and Scotland of the costs under each of the headings in their submission and whether they actually represent the RAB.

Paul Plummer: They represent the assets that are covered by the RAB. However, the RAB is not a physical asset; it is a financial matter, on which we are allowed a rate of return in setting our revenue. Such a concept is different from what you might be used to seeing in normal accounts.

Bruce Crawford: So is that all part of the Ernst & Thingamybob report as well?

The Convener: You mean the Ernst & Young report.

Paul Plummer: Over the years, there has been much debate about how to determine once and for all the value of the regulatory asset base after privatisation. The matter has then been rolled forward on the basis of actual expenditure. In other words, the process of rolling forward is mechanistic, but the initial valuation is the subject of a complicated debate.

Bruce Crawford: But can you put a valuation on the figures that you have given us?

Paul Plummer: You cannot attribute the regulatory asset base to those figures in any meaningful way. It is just not that sort of concept.

Bruce Crawford: I suspected that that would be the answer.

I have two other questions, one of which is related to this issue. Your on-going expenditure plans are obviously a reflection of what you want to achieve in line with the priorities that have been set. One of those priorities is the level of finance that is available. However, that is different from the on-going need that must be met before you can begin the prioritisation process. Am I right or wrong in suggesting that the on-going need to bring the asset up to standard in Scotland might differ from what is set out in the on-going expenditure plan?

Ron Henderson: We receive an amount of money in response to the specification of the network that the department and the SRA requested. Indeed, it is fair to say that the situation is the same across GB as a whole. That specification is what we plan to deliver for the money that we have been allocated.

Moving forward, I suspect that one of the advantages from the Scottish angle is that you will be able to specify something different from the position in England and Wales. However, that will come with an adjustment to the cost; whether it goes up or down will depend on the specification. At this moment, we are in a pretty stable state throughout the UK.

Bruce Crawford: But let us say that I was the minister and I was about to inherit the provisions in the bill, which will give me powers to direct you guys on how to spend the money. I do not know what the overall state of the asset is and what will be required to bring it up to a certain standard. After all, any previous approach has been based on certain priorities, so stuff will have to fall off the bottom of the list. I presume that you will be able to pass that information to the minister at the appropriate time.

Ron Henderson: The whole issue is about trade-offs and cause and effect. As I said earlier, I think that we would all agree that there was a period of significant underinvestment in the rail network throughout the country. We are seeking to catch up. However, there is a limit to the money that is available and to our physical ability to get access to the network to do the work, because lines have to close and so on. When all is said and done, the passengers are the primary party in all this. Therefore, it will take a long time to get the network into an optimum state. The trade-off is that more money gets spent on maintenance in order to keep the network operating at a reasonable level. The more renewal that is done, the less the maintenance costs will be.

Bruce Crawford: I have a final point. I want to take you back to something that Iain Smith raised with you, which is unexpected happenings. When are you going to replace the Forth road bridge? Sorry, I mean the Forth rail bridge. Do forgive me—I do not expect you to replace the road bridge.

The Convener: Are you calling for the rail bridge to be knocked down?

Bruce Crawford: What is the expected life of the rail bridge? I guess that it is one of your biggest bridges, if not the biggest, and it probably has one of the highest asset values and one of the highest maintenance costs. How long will the bridge last?

Ron McAulay: If we maintain it properly, it should last for 100 or 200 years—you tell me. It is down to the level of maintenance that we put into that structure. We spend about £11 million or £12 million a year on painting the bridge. We expect that the kind of paint that we are putting on will give us what we hope will be a relatively maintenance-free period of 25 to 40 years, once the painting is completed. I say relatively maintenance free because we will always be touching up bits and pieces here and there. However, the kind of paint that we are applying very carefully should give us a longer lifetime.

I should say as well that if you actually go inside some of the main members of the bridge, you will find that they are as good as they were the day that the bridge was built.

Bruce Crawford: Can I have some of that paint to apply on myself? I might last a bit longer.

The Convener: You can buy it from Network Rail at a reasonable price.

Ron McAulay: We will apply it for you as well.

Bruce Crawford: We are meeting David Boyce tomorrow, so I will be able to get further detail from him. However, what you said is useful—thank you.

The Convener: That brings us to the end of this session of evidence taking. I thank Ron Henderson, Ron McAulay and Paul Plummer.

I will allow members a two-minute break before we go into the next session.

17:57

Meeting suspended.

18:02

On resuming—

The Convener: I have a question for members before I introduce our next panel of witnesses. We intend to have Executive officials come along and give us a briefing. Given that the meeting is over-running extensively, would members prefer to have the briefing this evening or would they prefer the Executive officials to come along first thing tomorrow before we go into the first item of business for tomorrow's meeting? I am looking for guidance from members on what they would prefer.

Iain Smith: It depends what you mean by first thing.

The Convener: I am talking about 9.30 am.

Fergus Ewing: If the meeting is due to start at 10 am, I think that we will need more than 30 minutes for the briefing. I do not think that we could finish questions to the civil servants in 30 minutes.

The Convener: It might well mean that the meeting runs into lunch time tomorrow. The choice is whether members want the Executive officials to come along at the end of proceedings tonight, which is likely to be fairly late, or first thing tomorrow, before we consider other business. I am comfortable either way.

Fergus Ewing: So am I; I am happy to go with the majority. However, before we see the civil servants and have the opportunity to ask them questions that arise from the information that we have received only today and the evidence that we have taken today, it would seem to me to be essential that we receive the Ernst & Young report.

I know that you are making efforts to get hold of that document, convener, but I have to say that, without that key document, which has been referred to by the ORR and Network Rail and which has presumably informed the Executive's thinking, we are flying blind, as they used to say in the sheriff courts, because we do not know what the facts are or what the Executive has seen. I would prefer to see that document before questioning the civil servants, if the Executive is prepared to disclose the information.

The Convener: As you are aware from our informal conversation, I have indicated that members want to see that document. However, I have had no response on whether it is to be made available to us. I would hope that it would be, but I can say no more than that at this stage.

To ensure that we do not hold up proceedings any further, I ask whether members would like to talk to the officials this evening or tomorrow.

Bruce Crawford: Tomorrow.

Iain Smith: Just for clarification, has that been cleared with the Deputy Minister for Finance and Public Service Reform, who would, in that case, have to come to the committee later than he is currently scheduled to?

The Convener: No. I am trying to clarify the committee's view at the moment. When I have done that, the clerks will speak to anyone who would need to be spoken to. I am conscious of the fact that we might have a fairly late finish tonight and members might have other commitments.

Iain Smith: I would prefer to meet the officials tomorrow, when we will be in a better state to reflect on what we have heard and, further, will be awake.

Paul Martin: Could we start tomorrow's meeting at 9 o'clock?

Iain Smith: That would be fine by me.

The Convener: The clerks will see whether we can get access to the room at 9 o'clock. If that is the case, I have no problem with there being a 9 o'clock start.

Tommy Sheridan: I should point out that the railways were pretty poor this morning.

Iain Smith: They were fine coming from my direction.

Tommy Sheridan: I can tell you that, coming from Glasgow, they were very poor. The earlier that the meeting starts, the more likely that is to cause a problem.

The Convener: Do people want us to meet the officials tomorrow?

Bruce Crawford: Before we decide that, I would like to ask a question. I am conscious of my needs tomorrow—I have meetings tomorrow lunch time but nothing tonight—although, obviously, the majority view will win the day. However, tomorrow we are talking to Nicol Stephen. How much time do we have to deal with the matter given the timetable for the Sewel process?

We need some time following the information that we have received in evidence today. If we meet the civil servants tomorrow, we will go straight to the minister without having had any time for the adviser to reflect on what he has heard and to provide us with advice. We have got to do this right.

Is it possible to postpone our meeting with the minister until another day? That would give us a breather in which the adviser could get the report to us.

The Convener: I do not believe that the timeframe of the UK Railways Bill will enable us to postpone our meeting with the minister. If we did so, the Scottish Parliament might have to consider the Sewel motion without having the benefit of a recommendation from this committee. If the Scottish Parliament were unable to consider it, we would not be in a position to give a view on the Sewel motion before final consideration of the Railways Bill at the UK level. That is why an additional meeting was scheduled in the first place.

Bruce Crawford: On the basis of that answer, I think that, no matter how inconvenient it might be for me, we should listen to the civil servants tonight, so that the adviser might have time to prepare for us a position before we deal with the Sewel motion tomorrow.

The Convener: I know that a couple of members have expressed a preference for meeting the civil servants tomorrow. What is the view of those who have not expressed an opinion?

Michael McMahon: It would be wrong for me to express a view as I cannot make tomorrow morning's meeting as I am convening the Public Petitions Committee, as I have already intimated to you. However, I would be prepared to hear from the civil servants tonight.

David Mundell: I share Bruce Crawford's view. I am sympathetic to the concerns of members who have to travel home, but I think that hearing from the civil servants tonight would be better, in that it would give us time to reflect on what we have heard and would enable Iain Docherty to give us an indication of what it would be useful to speak to the minister about.

The Convener: The majority of the committee is in favour of speaking to the officials tonight. We will proceed on that basis.

Iain Docherty (Adviser): I have a teaching commitment at the university at 2.30 tomorrow afternoon that I cannot miss, which means that I would be unable to stay beyond the scheduled end of tomorrow's meeting. However, I am happy to stay as long as it takes tonight.

The Convener: Thanks; that is useful.

I apologise to our next witnesses, Jonathan Riley and Stephen Bennett, for that additional delay in proceedings. I also apologise for not getting to them as early as was scheduled. That is a result of the importance of the issue that we are considering and the fact that the financial information that relates to the UK Railways Bill and the agreements between the UK Government and the Scottish Executive were not finalised until late on, which has prolonged today's debate. Without further ado, I invite Stephen Bennett or Jonathan Riley to make introductory remarks on behalf of the Strategic Rail Authority.

Jonathan Riley (Strategic Rail Authority): Although the Strategic Rail Authority will close down as a result of the Railways Bill, we are pleased to attend today to give evidence on the bill and the Sewel motion. We are keen to talk to the committee about the transfer of functions from the SRA to the Scottish Executive and how that might work in practice. Throughout the SRA's existence, it has had a good relationship with the Scottish Executive, which has enabled us to work closely and effectively in preparing for the subsequent transfer of some of our functions, should the UK bill receive royal assent. Since last summer, I have worked closely with Kenneth Hogg at the Scottish Executive to help the Executive in the design of its rail functions—if and when they transfer—and, ultimately, to ensure that the transition is as smooth as possible. I have been using a team of SRA people, many of whom have worked in Scotland for several years to help the Executive to manage some of the functions that will now be transferred.

In our work with the Executive, we have focused on the skills, resources and competencies that are needed for the functions to be carried out effectively once the SRA ceases to exist. Despite the fact that the SRA will close down as a result of the bill, the team remains motivated and committed to helping the Scottish Executive to prepare for the increased functions and responsibilities.

We are happy to answer any questions.

The Convener: The Strategic Rail Authority's budget was mentioned earlier. The Scottish Executive document that was released to us today states that about 25 per cent of that budget will transfer to the Department for Transport for functions that will not be devolved and that, of the other 75 per cent, a 10 per cent share will be for functions that will be devolved to the Scottish Executive. Will you expand a bit more on the 25 per cent of the budget that is for functions that are not being devolved? I understand that that is for safety issues and Rail Passengers Council funding. Will the £7.5 million that will be devolved to the Scottish Executive be sufficient to recruit enough experienced personnel to allow the Executive to carry out the functions that it will receive?

Jonathan Riley: I can help on the second point, but on the first point, the SRA has not been involved in the discussions about the settlement that is mentioned in the Scottish Executive document. Clearly, that is an issue for the Scottish Executive and the Department for Transport, which are the two sources of funding of the SRA. We have not been party to the discussions, other than through providing information on the present costs of running the SRA. As the decision did not involve us at all, I cannot give more help on that matter.

On your second point, from the work that we have done with the Scottish Executive, it seems that £7.5 million is an appropriate amount of resource to recruit the type of people and put in place the size of organisation that will enable the Scottish Executive to carry out the functions that will be transferred and the research and detailed analysis that the SRA has carried out in the past.

18:15

The Convener: It seems to me that a number of the personnel with the required knowledge and experience could be existing employees of the Strategic Rail Authority. Has any work been done with Strategic Rail Authority employees to identify people who would be interested in applying to transfer to roles in the new agency that will be established in Scotland? I recognise that the majority of SRA staff are based in London.

Jonathan Riley: Yes. We have done quite a lot of work with the Scottish Executive. One of the proposed new posts is the head of rail delivery and performance, which is being close listed—I think that that is the right term—and offered to Scottish Executive and SRA employees. In addition, we expect that the Scottish Executive will make available to SRA staff a number of posts in the proposed new rail function and will recognise that a transfer of functions is involved in a couple of specific areas. It is clear that there will be discussions about the appropriateness of applying Cabinet Office guidelines to deal with those transfer arrangements.

The Scottish Executive is clear that the sort of capabilities and skills that exist in the SRA will be needed to run the new rail function. Therefore, we have already asked people who want to be considered for a role in Scotland to come forward. The SRA is based in London, but, given that we deal with railways, many people are fairly mobile, which will probably be helpful.

It is also worth mentioning that where there is not a transfer of function, many skills and capabilities to do with railways and the management of projects—I do not mean only transport projects—are already available in Scotland. Much of the work will be about managing partnerships and relationships. Subject to the number of SRA people who come forward and their match with roles in Scotland, there will potentially be an interesting mix of SRA people, people who are already active in the industry in Scotland and, of course, people in the civil service.

The Convener: I have a question about investment in the railways, particularly in enhancements. Recently, we discussed with Network Rail whether, historically, Scotland has had its proportionate share of investment in maintenance. Obviously, the SRA's role in respect of enhancements is different from that of Network Rail. Can you say whether there has been a proportionate share for Scotland for enhancements, whether in respect of the existing track mileage, the share of the UK rail network or whatever, either in the years of the SRA's existence or over a broader timeframe?

Jonathan Riley: I cannot really comment on whether Scotland has had a proportionate share. I can say only that, prior to today's note from the Scottish Executive on the settlement, we have been clear that the SRA's responsibilities to apply the criteria that the Government requires to be applied relate to the prioritisation of projects throughout Britain. Therefore, throughout its existence, the SRA has sought to ensure that we take forward projects and seek funding from the Government for projects that meet value-for-money criteria, irrespective of where they are in the UK. It is evident from the projects that we have progressed that that approach has been applied—hence my mentioning a number of SRA people who have managed projects in Scotland in the past few years. From the settlement and the level of funding that is available from the Government's spending review, it is clear that the position going forward is different, but I can say that the criteria were applied properly in the past.

The Convener: I have a final, related question. As part of the settlement in the Scottish Executive's document, there will be a departmental expenditure limit transfer of £17 million per annum to the Scottish Executive to deal with future rail enhancements in Scotland, as well as a proportionate increase of further enhancements in England and Wales, which will be based on the application of the Barnett formula. Was the SRA involved in determining the £17 million figure, or was that done by the two Governments?

Jonathan Riley: We were not involved. The two Governments reached that settlement.

Stephen Bennett (Strategic Rail Authority): The SRA ensured that information on the Edinburgh Waverley project was made available to the Scottish Executive and to the Department for Transport. We provided information to both parties on the state of the project and how much it would cost, so that the parties would be better informed about it in their discussions.

Iain Smith: I appreciate that you were not party to the details of the funding arrangements, but the Executive's paper, under the heading "Associated Funding Transfer", indicates that 25 per cent of the SRA money will be retained and will not be Barnettable—if we can add the verb "to Barnett" to the "Oxford English Dictionary". Part of that figure can be accounted for by matters such as safety and the Rail Passengers Council, but the paper also mentions an "efficiency gain assumption". Can you give an indication of how much of the 25 per cent that the DFT will retain is accounted for by an efficiency gain assumption?

Jonathan Riley: Unfortunately, I cannot comment on that, because we were not involved in the process, other than in so far as we provided information to both Governments about the cost of running the SRA.

Iain Smith: You might be able to approach the question from the other direction. You know what functions will not be transferred. What are the costs for safety and the Rail Passengers Council that come out of the £99.3 million that the SRA currently receives?

Jonathan Riley: I do not have that information. However, we provided the base information to the Scottish Executive, so I am sure that we or the Executive can give you it.

Fergus Ewing: My point follows on from Iain Smith's question. The Executive paper that sets out the rail review outcome for Scotland, which we received this afternoon, contains the figure to which Iain Smith referred. Our share of the ex-SRA funding will be based on 75 per cent of the SRA budget for the current year. The justification for that is given in the paper, which states:

> "The remaining 25% of those budgets is accounted for by activities not transferring to the Scottish Executive (such as safety and Rail Passengers Council funding)".

The fact that the words "such as" are used might indicate that other functions are not being transferred to the Executive.

Jonathan Riley: I have not seen the list of activities to which the paper refers. Off the top of my head, I imagine that a number of matters will not explicitly transfer. For example, there are many matters to do with Europe, in relation to which the Scottish Executive has not asked for functions to be transferred.

Fergus Ewing: Which functions?

Jonathan Riley: Many of the functions relate to member-state responsibilities that the SRA carries out on behalf of Government, such as the transposition of European directives. For example, quite a lot of resource is involved in the implementation of interoperability directives. The SRA also carries out functions with regard to some of the national infrastructure projects, especially matters such as the European rail traffic management system. Quite a lot of SRA resource is tied up in such matters, which will naturally revert to the secretary of state and the Department for Transport.

Fergus Ewing: So although you have not been privy to the detail of the deal, your understanding is that those will remain UK functions—what we call reserved functions—and will not pass to the Executive and become devolved.

Stephen Bennett: There will definitely be some such powers, yes.

Fergus Ewing: That will include matters relating to Europe, which will not come here.

Stephen Bennett: No.

Fergus Ewing: They will stay down there. Will that have an impact on Eurostar?

Jonathan Riley: Eurostar?

Fergus Ewing: The Eurostar route.

Jonathan Riley: Sorry, can you expand on that?

Fergus Ewing: There has been some debate in Scotland about whether Scotland should be able to connect directly with the train routes to continental Europe.

Jonathan Riley: The only significant point is that, under the Transport Act 2000, the SRA is required to produce a strategy for the channel tunnel. I am aware that the continuation of that requirement is being discussed in relation to the bill. Committee members might recall that part of the reason for that was the Eurostar route to Scotland.

Fergus Ewing: I think that we can safely assume that responsibility for the chunnel will not be devolved.

We are presented with the figure of 25 per cent, which is a suspiciously round figure. It is difficult for you to answer this question now, but will you come back to let us know whether you think that

25 per cent is a fair assessment of the cost of those functions that will remain reserved? We are both in the same position. We have been presented with the information only today, so we have had no means of checking it out and we could not give you notice of our questions. It would be extremely helpful to us in our deliberations if you could come back to us on that. We have an extremely short timescale and we have to come to a decision by lunch time tomorrow—that is not my timescale, you understand, which would be rather different. Are you able to say when you might be able to get back to us on that point, which I think is an important one?

Jonathan Riley: It is. It is something that we will need to talk to the Executive and the Department for Transport about. As I said, we can refer to the list of functions and we know which functions will transfer and which will not.

Fergus Ewing: Does that mean that you might not be able to get back to us by tomorrow morning?

Jonathan Riley: My slight concern is that, because the SRA is funded by both the DFT and the Scottish Executive, I am not in a position to offer a view on whether the 25 per cent figure is right or not.

Fergus Ewing: We will leave it to your good will.

Stephen Bennett: It might be helpful if I put in your minds the fact that the word "efficiency" is referred to as well.

Fergus Ewing: I was going to ask you about that in my next question.

Stephen Bennett: We, too, have seen the document only today, so I do not know what the reference to efficiency refers to. Some natural efficiencies will be achieved in areas such as personnel functions if there are fewer organisations in the future. We cannot speak with any authority, but it is possible that there might be an element of that.

The Convener: It might be useful if you could provide us with a full definition of the functions that you believe will be transferred to the Department for Transport and state whether specific staff who are associated with those functions are ring fenced and will be moved directly to the DFT. That information might not be available by tomorrow, but the Scottish Parliament will not consider the Sewel motion until next week, so it will still be useful.

Stephen Bennett: Do you mean reserved matters, convener?

The Convener: Yes.

Fergus Ewing: I think that Mr Bennett managed to anticipate my final question, so I will just say that I believe that the transport agency that will have the rail functions will be established in Glasgow—which is a nice place to live, I am told—so we might see some of his former colleagues there in due course if any of them want to join us here in Scotland.

18:30

Bruce Crawford: Could you provide us—not by tomorrow, but in the longer term, given that the issue about the RAB and the final settlement will take a bit longer—with information about the SRA's departmental running costs, including how much you are spending on salaries, travel and subsistence in the current financial year? It would be helpful to see a breakdown of that information in annual report form so that we can understand what the SRA looks like at this stage. Other than the staff and running costs, does the SRA have any property assets of which you are aware? If so, what is their value?

Jonathan Riley: The answer to your first question is yes, we can do that. That information is available. It is published annually, but we will make sure that you have the relevant up-to-date information.

On property, one of our residual organisations—BRB (Residuary) Ltd—owns a number of sites across Britain from the time of the Railways Act 1993. There are a large number of sites throughout the UK and a burdensome estate that leaves significant liabilities. I do not know what that figure is, but we can certainly make it available. As I said, that property is held by BRB (Residuary) Ltd.

Bruce Crawford: There is obviously a valuable asset in terms of land, holdings and buildings. Are you aware of any discussions between the Scottish Executive and the UK Department for Transport about apportioning an element of that asset to the Scottish Executive?

Jonathan Riley: We are not aware of any such discussions. There have been discussions about individual sites and I have seen detailed correspondence asking the Scottish Executive to give a view on whether certain sites are required to be held for future transport use, but I am not aware that there have been any discussions about apportionment. I am advised by the Department for Transport that the SRA shares in BRB (Residuary) Ltd are transferred to the secretary of state.

Bruce Crawford: Shares?

Jonathan Riley: Yes.

Bruce Crawford: How much are those shares worth?

Jonathan Riley: I do not know how much they are worth. I suspect that the word “shares” is used because we are dealing with a residual organisation that is owned by the SRA.

Bruce Crawford: So the shares do not have any capital value.

Jonathan Riley: I suspect that there is a mixture, which is why I mentioned burdensome estates. Some of the properties or land will have value, although we have been trying to ensure that we dispose of the ones with value for transport use. Clearly, some of the sites have significant liabilities. That will all be contained in the SRA’s balance sheets.

Bruce Crawford: It would be useful to see those if you could send them to us. Have you ever been in discussion with Ernst & Young about the whole process?

The Convener: Before you answer, I should tell the committee that the clerks have passed me a note saying that a summary copy of the Ernst & Young document should be available to us tonight and the full report will be available to us by 2 o’clock tomorrow.

Fergus Ewing: After the committee meeting.

The Convener: The information that I have been given is that the Ernst & Young report is still being completed, but a summary of it will be available to us tonight. I will allow Mr Riley to respond on whether he has had access to the Ernst & Young report.

Jonathan Riley: No.

Bruce Crawford: Fair enough. That was a mischievous question.

Stephen Bennett: We can confirm that our annual report and accounts, which are available on the website, provide the information about the running costs, assets and liabilities of BRB (Residuary) Ltd.

Bruce Crawford: That was noted by the clerks and I am sure that the information will be useful at some stage. Has the SRA assessed the number of staff who are carrying out work associated with Scotland? What number are we talking about?

Jonathan Riley: Yes. We have considered the SRA staff whose role involves them spending a significant proportion of their time in Scotland. No more than 10 people spend more than half their time in Scotland. It is equally significant that those 10 people can do their job only with the support of the rest of the organisation. We have to consider both pieces of information.

Stephen Bennett is one of the 10, because he spends most of his time looking at the delivery of infrastructure projects in Scotland, including Waverley. There are others, such as the ScotRail franchise manager, planning manager and freight manager. One issue has been the level of support that those people require in many of the technical and professional areas.

Bruce Crawford: In that case, Stephen Bennett had better get himself a copy of the property pages of *The Herald*.

Have you had discussions with the Scottish Executive about the number of staff that it will need to employ to run the show in Scotland once it takes over? Do you know what that number is at this stage?

Jonathan Riley: We have had discussions. A lot of the work that we did was to help the Executive to determine what it might take to carry out the functions in Scotland, given that there will be a difference between performing the functions purely for Scotland and performing the functions throughout the UK, which brings benefits. Our work culminated in a presentation to the Scottish Executive in which we suggested that between 30 and 50 people could probably do the work. The low end of the range is about ensuring that there are informed people with the right technical competencies in a number of areas. The Executive could then look at increased resources as and when it engages in certain projects. Broadly, that number of people would be able to perform the role, but as part of an agency in which one would expect support for finance, personnel, procurement and so on.

Bruce Crawford: That is useful.

The Convener: It was envisaged that 200 people would be required if the transport agency was based in Glasgow. Are your figures included in that 200?

Jonathan Riley: Yes, they are.

Michael McMahon: You provided a list in your written submission of the functions that you have helped to transfer across, the last of which is

“Input to safety issues and standard settings”.

Does standard setting refer to safety standards?

Jonathan Riley: Stephen Bennett might be better placed to answer that. Although in previous discussions today people have mentioned that safety is a reserved matter, in this case we are dealing with the fact that the Scottish Executive and the transport agency will have a relationship with Network Rail. Given the hugely important issues of being efficient and keeping costs under control, the industry has recognised the need to deal with standard setting, to ensure that standards do not drive increased costs. That is one area in which the Executive will be in a good position to take a view.

Stephen Bennett: I have a good illustration. The convener and I went to Bathgate to open a platform extension that the SRA helped to make happen. Two weeks later, we were informed that the platform would have to be redone, because the buffer at the end was not of the modern standard and the railway standards required that it be replaced. There also had to be a longer distance between it and the concrete wall, which meant that we had to have an even longer platform. That happened after the extension had been ceremonially opened. I was absolutely furious. Part of my job is to challenge the standards and how they are interpreted. It turned out that the chap who told us that it would have to be replaced had got his miles per hour and kilometres per hour the wrong way round and all sorts of things.

There has been a lot of misunderstanding about some of the railway standards. We have found that when you challenge them—when you know what you are doing and you feel confident that you can do it from within the industry—you can make quite a difference and avoid some of the mistakes. Such a role is valuable. That is an area in which competence pays off.

The Convener: It is a bit worrying if somebody is getting their miles per hour and kilometres per hour the wrong way round. I hope that that would not happen with drivers.

Stephen Bennett: These little accidents happen, but we are there to put them right.

Michael McMahon: That may go some way towards explaining why one of the submissions to the committee suggested that the current cost base of railways in Scotland is around twice that in comparable European countries. We have been given two possible explanations for that. One is that standards are too high—they are excessively above what is required, because they are based on standards in and around London. Is that your experience?

Stephen Bennett: After 35 years in the industry and lots of debates between the regions with the British Railways Board, I have learned that no one simple statistic tells us everything. We need recognition of what things really cost, based on the experience of managers on the ground.

Michael McMahon: Do you believe that the costs are not excessive and are realistic?

Stephen Bennett: You have a big network. People often misunderstand just how big the railway in Scotland is.

Jonathan Riley: In the past year, the SRA and Network Rail have considered differentiated standards. We are considering whether we need the same standard for a rural line in Wales, Yorkshire or Scotland as we need for a busier, interurban line, which, on the face of it, might look the same. That has been a sensible debate to have and Network Rail has said in its business plan that it will consider the issue more carefully to ensure that it is not spending money unnecessarily.

Michael McMahon: With the transfer of powers to the Scottish Executive and the ORR, will it be possible for that type of debate to progress and for the issue to be considered more carefully than it could be in the past?

Jonathan Riley: The debate is already progressing. The bill will enable the Scottish Executive and, eventually, the transport agency to have a bigger role in engaging with Network Rail on what the issue means. It is critical that that work is progressed with an understanding of stakeholder needs and what Scottish ministers are looking for from the railway in different parts of Scotland. That debate has to be progressed on the basis of partnership.

Michael McMahon: We certainly have to have the debate.

Jonathan Riley: Yes.

The Convener: I refer back to the question that Michael McMahon asked about the comparative cost of Scotland’s railways. The comparison between Scotland and the Republic of Ireland has been drawn to our attention. It has been suggested to us that the cost per kilometre of maintenance and renewal in Ireland was just above 50 per cent of that in Scotland. That is for a railway that is about four fifths of the size of Scotland’s. The specific comparison was a per kilometre comparison. Are you aware of reasons why the costs per kilometre in Scotland are almost double those in Ireland?

Stephen Bennett: I would be wary of drawing too close a comparison between the two railways. The railway here is much bigger. Some of the rural lines in Ireland are quite run down—at least they were the last time I was there. You would be best advised to take good advice. The regulator proposed to take his time to consider the issue seriously, thoroughly and transparently so that everyone gets the opportunity to see what is being proposed. That sounds like a sensible way in which to proceed.

David Mundell: You have acknowledged the fact that, as part of this shake-up, you are being abolished, as it were. The other two key organisations—the Office of Rail Regulation and Network Rail—are carrying on. Will Network Rail in its current form be able to interact with the Scottish Executive, given the new responsibilities? Given that Network Rail no longer operates on a regional basis in the way that it did previously, as I think you said, Mr Bennett, is it in a position to interact with the Scottish Executive in a way that would make the arrangements work as envisaged?

18:45

Stephen Bennett: One of the lessons from the projects that we have been doing in Scotland and from the success that we have had with platforms and depots and so on—we have been moving forward with the Waverley project and the airport links in particular—is that we work best when we all work together as an industry. One of the things that I have enjoyed most is seeing how we have been building on success. We are gradually getting projects of a larger and larger size. We are taking it nice and steadily and we are all there together. The Scottish Executive is becoming increasingly involved and Network Rail is much more positive and engaged than it was previously. In a way, we can understand how the SRA's time is almost up. In situations where we would once have had to step in, it is perhaps now time to start stepping back while the rest of the industry takes responsibility for itself and behaves in a much better way.

Jonathan Riley: Stephen Bennett's point is right—this is ultimately about partnerships. Paul Plummer spoke earlier about Network Rail's recognition of the need to work more effectively with its customers, funders and stakeholders. Under the bill, Network Rail has an enhanced role. People call that the industry leadership role. I am not sure that it is quite that, but Network Rail now has a critical role in ensuring that the performance of the network and the trains is moving towards the level that is required by the various stakeholders.

We have been working closely with Network Rail to ensure that it is building on our experience and learning—including on the route utilisation strategies, in which the Scottish Executive will have an interest—and that it is taking on the appropriate resources. The Scottish Executive's position is crucial. For the first time, the Executive will have the ability to manage, both through Network Rail, the infrastructure provider, and through ScotRail, the train operator, by means of the franchise agreement. Although the two mechanisms are different, the Scottish Executive has a key role in working with those two organisations to deliver the required outcomes.

David Mundell: There might be a perception that, at a time when powers are effectively being devolved, Network Rail is becoming a more centralised organisation. Would you disagree with that perception?

Stephen Bennett: I was quite impressed by what Ron McAulay was saying, as well as by what Ron Henderson, from the Network Rail board, was telling you about taking the customers very seriously. We have noticed that Network Rail is doing that, which bodes well for the future.

David Mundell: Given what we have heard from Network Rail and from the Office of Rail Regulation, are you satisfied that, for the functions that are being transferred, the model will be able to work as envisaged?

Jonathan Riley: To build on what I said earlier, the crucial point is that the Executive has sufficient resources and capability to work in that partnership. You heard what the representatives of Network Rail said and we have offered some views. The crucial thing is to ensure that the necessary capability exists to ensure that the functions that are transferred work. Stephen Bennett gave some useful examples to illustrate why it is necessary to ensure that the Government has the right knowledge and capability to engage with Network Rail and ScotRail. My sense is that everyone is committed to making the system work, but my view is that, to make that happen, we must ensure that the Executive has the right resources.

David Mundell: Let us go back to the specific case that Mr Bennett raised. In relation to the Waverley project, what difference will we notice from the new arrangements?

Stephen Bennett: I rather hope that they might be good news for that project.

David Mundell: We will leave it at that; the committee always welcomes good news.

Stephen Bennett: It is not for me to make an announcement but, if you ask the minister about that tomorrow, he might have something to say.

The Convener: I have a short question. You said that you believed that Network Rail was becoming more focused on its customers. Under the devolved settlement, do you think that the primary customer is ScotRail or the Executive?

Stephen Bennett: The Executive needs to be empowered to act in the capacity of client. It needs the skills and resources. We have talked to the Executive about how to obtain them. Jonathan Riley has explained that we think that that will work okay. We wish the Executive well.

Jonathan Riley: Since privatisation, one of the challenges that the Government has faced is that of being both customer and client. That situation is challenging and interesting. On the one hand, there is the task of setting the outputs for the network, which involves telling Network Rail what to deliver for the network. Obviously, that delivery is also paid for. In other words, the Executive will be a receiver, because it will tell Network Rail what it wants the railway to do but, as Stephen Bennett said, it will also be a client, because it will be spending a lot of taxpayers' money on the railway. It is fascinating to manage those two aspects together.

We have had a great deal of discussion with Executive staff about the informed client role. We have coined that term to describe how capable an organisation is of managing a provider to which it is paying lots of money, with regard to infrastructure projects especially. Stephen Bennett gave the example of platforms. If the potential exists for the deliverer of the project suddenly to say that that project will cost twice as much, the funder—the Government—must be able to challenge that. The Executive will be both customer and client. That role can work; it is just a question of acknowledging that the two roles exist.

Paul Martin: Jonathan Riley will know that both the public's and members' perception of the Strategic Rail Authority is that the maze of responsibilities means that there is a lack of accountability. I hope that the new regime will ensure that we have accountability and that it will clarify the responsibilities of the various agencies that are involved in what is a complex area. We must consider how we can minimise the complexities. What kind of work has been done on that? We have heard strong words from Alistair Darling on creating clarity in the system, but what are you doing to ensure that that happens?

Jonathan Riley: As a result of the proposals, the Executive will be able to manage matters through the two key delivery agents, Network Rail and ScotRail. That represents a significant improvement in clarity. The sums that the Government is spending on delivering the railway that it requires have already been mentioned. In Scotland, the new Scottish transport agency will have that role, so the position will be much clearer. As I have said, the fact that the Executive will be able to make that happen is positive.

Paul Martin: What kind of testing is taking place to ensure that that is the case? In effect, the railway industry is a business. If we were talking about the restructuring of a private industry that was considering a new process of delivering its business, surely there would be some testing to ensure that the new structure would deliver. You are saying that the process will be good, but what kind of testing is taking place to ensure that we get the right model? I take it that the transitional period will be the opportunity to put in place a process that will deliver.

Jonathan Riley: On the last point, we are committed to the transitional process. The team that has been working in Scotland for the SRA will work closely with the Executive in making the transition happen, but the critical elements of that are transferring the learning and knowledge.

The best example is the management of the ScotRail franchise. Part of the learning that we have been able to share concerns the way in which the SRA and its predecessor, the Office of Passenger Rail Franchising, managed franchises. That process has changed significantly along the way from an initial hands-off approach to detailed, close and resource-intensive management of the franchise, and now to a partnership approach. The reality is that we probably need a bit of each style.

It is also important to understand the difference in franchises—the ScotRail franchise is clearly different from a premium-paying intercity franchise. The learning that we have been sharing concerns what that means for the way in which the franchise is managed and for the organisation's structure. The issue inevitably comes down to continuity—which is what we have been providing by transferring the learning—to ensuring that the railway expertise is available and to attracting people who are able to manage relationships and work with partners.

Fergus Ewing: I understand that, under the bill, the SRA will be wound up and its strategic and financial functions will pass to the DFT and the Scottish Executive. We heard earlier that the ORR estimated that Network Rail spends 31 per cent more than it should—in other words, that it is 31 per cent inefficient and that, as the ORR has set out, 31 per cent efficiency savings must be made. The SRA has been responsible for that expenditure and for ensuring that value for money is achieved, so has the SRA failed over the years of its existence? Should you already have made any of the 31 per cent efficiency savings?

Jonathan Riley: It is important to understand the role that we have had, which was never as powerful as many people perhaps wanted it to be. Network Rail is technically an accounting subsidiary of the SRA, but given that Network Rail was set up as a not-for-dividend organisation, the powers that were created for the SRA did not really give us any degree of control. People will say whether that is good or bad, but the reality is that Network Rail is a regulated company. On the face of it, Network Rail might have been an SRA subsidiary, but the situation was probably no different from what it is now—the ORR regulates Network Rail and it is the ORR's responsibility to ensure that Network Rail has the right efficiency targets and delivers in terms of cost and performance. I was not party to the arrangements with Network Rail, but I do not think that they were ever really able to do what certain people thought they would be able to do.

Fergus Ewing: The Executive will be in the same position, will it not?

The Convener: It is not productive to get into a debate on the relationship between the SRA and Network Rail at this stage.

That brings us to the end of questions for the Strategic Rail Authority, so I thank Jonathan Riley and Stephen Bennett for their evidence this evening.

Fergus Ewing: Convener, has the Executive supplied us yet with the summary from Ernst & Young, or is it withholding it?

The Convener: I do not think that we have received it yet. I will ask Alastair Macfie, one of the clerks, to pursue that matter and to find out when the summary will be available to us.

Fergus Ewing: It is now almost 7 o'clock, convener. I would think that, if the Executive is going to provide us with the summary tonight, it should do so before the officials from whom we are hearing come along and not conveniently after we have had the chance to question them.

19:00

The Convener: I have asked one of the clerks to pursue that.

I welcome our fourth panel of witnesses, who are Robert Samson and John Clare of the Rail Passengers Committee Scotland. I am sorry that we are running a little over time, but as you have followed much of the meeting, I am sure that you will realise that the committee is giving detailed scrutiny to the important issues that we are considering, which are the additional powers that are to be devolved to the Scottish Executive as a result of the UK Railways Bill and the supporting financial arrangements. Without further ado, I invite Robert Samson to make some introductory remarks.

Robert Samson (Rail Passengers Committee Scotland): Thank you for inviting us along to the committee. We have had no input into the financial statement, which, as happened to the committee, was simply sprung on us this afternoon.

Passengers are mainly concerned about the punctuality and reliability of services and about how much they pay for their tickets. However, below that, there is an expectation that the money that First ScotRail pays in track access charges should be spent on the railway infrastructure in Scotland. In the past, there has been a perception, which to some extent is backed up by the figures that Network Rail supplied, that not all the available funds in Scotland have been spent, even though many improvements could be carried out to the accessibility of stations, for example, or lines such as that between Aberdeen and Inverness.

Some of the money for renewals in Scotland will be spent on the west coast main line route modernisation. Although passengers travel cross border and we must pick up certain aspects of that cost in future, when the cross-border franchises such as those that are operated by Virgin Trains and GNER are re-let, Scotland will have a limited ability to say what it wants from those services. Although we will pay for the renewal, we will not be able to specify the service. The situation will be the same as at present—we will give non-binding guidance to the DFT, which is what we give to the SRA at present. A case can be made for ensuring that cross-border services meet the aspirations of passengers in Scotland.

A point was made earlier about major incidents in Scotland such as landslips. A couple of years ago, a major landslip occurred on the line between Edinburgh and Dunbar at Dolphingstone, which cost in excess of £50 million to repair. On behalf of passengers, we need greater clarity about who will pick up the final cost of such incidents if they occur in the future. Will contingency plans be put in place? Equally, there could be a major landslip on the Cumbrian coast—it is a quid pro quo situation. We do not want planned renewals or enhancements to be deferred to pay for major incidents and we would like greater clarity on how such incidents will be managed in future. As night follows day, there will be a major landslip or some other incident somewhere on the GB network.

The Convener: You referred to an issue that we tried to pursue earlier about whether resources that are raised in Scotland will be spent on renewals and maintenance in Scotland. Although we could not get a clear answer about the proportion of overall GB expenditure that is spent in Scotland, Network Rail made the point—which it has made consistently for a few years—that the track access charges that ScotRail pays do not cover fully Network Rail's expenditure in Scotland and that they must be topped up through grant from Government. Network Rail's point was that it spends more in Scotland than is raised from track access charges. That may be different from the issue of whether the proportion of investment in Scotland was an equitable share of GB investment. Do you have data to back up your concern that expenditure in Scotland was not proportionate?

Robert Samson: Other than the Network Rail figures, we have no data to hand to back up our concern. We have only the Network Rail data—the £190 million that is quoted in its figures. However, at many of our statutory public meetings with Network Rail concern was expressed about this issue. At those meetings, the previous holder of the ScotRail franchise, National Express, was critical of the amount that was being spent in Scotland.

The Convener: You are also involved with the Rail Passengers Council. Is the situation in Scotland different from that in other parts of the

UK, or is there also frustration in other parts of the UK that investment in renewals and maintenance in the past was not sufficient to meet the aspirations of passengers or the rail operators for reliable services?

Robert Samson: Passengers' frustration is GB-wide. The regional committees in England and Wales have similar frustrations about the amount of money that is being spent on infrastructure to meet passengers' needs and aspirations for services in the future. Many of the regional committees in England and Wales cast an envious eye at Scotland, because of rail enhancement projects such as the Stirling-Alloa-Kincardine line, the reopening of the Larkhall to Milngavie line and the public consultations that are under way on airport rail links—regardless of whether we think that such links are good or bad. South of the border, there is talk of a reduction in service levels. In Scotland, we are talking about enhancing and improving rail services.

Bruce Crawford: My question relates to a completely different subject. Clause 19 in part 3 of the bill concerns the formation of the new rail passengers council, which will replace the existing Rail Passengers Council. It states that there will be

"a chairman appointed by the Secretary of State"

and

"a member appointed by the Scottish Ministers".

It goes on to say that the National Assembly for Wales and the London Assembly will each have the power to appoint a member to the council. There will be 12 other members, all of whom will be appointed by the secretary of state after consultation with the chairman. However, there will be no consultation with Scottish ministers.

My question is twofold. First, are you happy that Scotland will be adequately represented on the new rail passengers council, given that it will include only one guaranteed member from Scotland? Secondly, given that all these rail powers are being devolved, why are we not getting a Scottish rail passengers council? Would you support the creation of such a body?

Robert Samson: When giving evidence to the committee on 21 December, the minister noted the need for a formal rail passengers committee in Scotland, as well as a formal Scottish ferry passengers committee. The Clyde and Hebrides consultation document that has been issued reiterates the need for a Scottish ferry passengers committee. At a time when greater power and responsibility are being devolved to Scottish ministers and the Parliament, it would be more acceptable for passengers to have a greater say and for their voice to be heard. There should be some form of passenger representation in Scotland with statutory powers.

To a certain extent, there will be a lessening of representation in Scotland. At the moment, there is a committee of 16 members, stretching from Inverness down to North Berwick. There are also people in the islands who represent Caledonian MacBrayne passengers. However, Scotland is guaranteed only one representative on the new rail passengers council.

It has been said, throughout the process of devolving powers and creating regional transport partnerships and a national transport agency, that passengers should be at the heart of the process. One way of ensuring that that happens is by having a consumer body that engages with service providers, the Scottish Parliament, the Scottish Executive and the national transport agency in order to champion passengers' aspirations and raise their concerns.

Bruce Crawford: In short, is that an argument for the establishment of a Scottish rail passengers council?

Robert Samson: Yes.

John Clare (Rail Passengers Committee Scotland): It is difficult to see how a body based in London would relate satisfactorily on a day-to-day basis with ScotRail, the Scottish Executive or Network Rail's Scottish operations in the way that we do. Our colleagues in the south envy our position, as they do not have a hotline to Government ministers or the train operating company that runs 95 per cent of their services. I fully endorse Robert Samson's point. From the point of view of the passengers whom we represent, it would be a step backwards if we were not replaced in some form. The replacement body would not have to be exactly the same as the present body but it should be one that passengers in Scotland can identify as representing their interests, fighting on their behalf and talking to the people who deliver the services that cause them such grief.

The Convener: Earlier, Robert Samson talked about the need for there to be sufficient input into the cross-border franchises. Do you have any particular models in mind in relation to how the interests of Scottish passengers might best be taken into account when new franchises are allocated or investments are made in infrastructure?

John Clare: We already have joint committees with our colleagues in the south that represent the interests of passengers on the east coast main line and Virgin Trains. I am a member of the east coast main line passengers panel, which was involved extensively in the pre and post-consultation period relating to the invitation to tender for services on the existing east coast main line. We would hope that, if there were a Scottish rail passengers committee, such links would continue but, if they did not, we would hope that the proposed rail passengers council in England would set up some arrangement whereby a strong passenger voice could be focused on those lines.

The proposals that we have seen talk about TOC-based representation by the proposed rail passengers council. Obviously, that does not adequately take account of the Virgin and GNER operations that run north of the border and we would hope that there would be a much closer involvement by Scottish passengers in those franchises, which are extremely important to the Scottish economy, the social life of many people in Scotland and tourism.

Robert Samson: In the initial consultation on the east coast franchise, the SRA proposed a reduction in service to passengers in Dunbar. GNER is the only company that currently serves Dunbar. It provides a commuting link between Dunbar and Edinburgh but, under the proposal, that link would be broken to a certain extent. We lobbied the Scottish Executive and the SRA long and hard to express our view that that was unacceptable for passengers in Dunbar. Our concern was picked up and arrangements have been made to ensure that passengers in Dunbar will continue to receive the same standard of service, although it will now be a Virgin cross-country train that stops at the station. The danger is that, in future, such issues, which a Scottish committee could raise, could fall down the cracks in the system.

Fergus Ewing: In response to Bruce Crawford, the witnesses expressed fairly clearly their views about the loss of a separate Scottish committee representing the needs and views of passengers and users. I endorse those views.

I presume that, as far as the witnesses are aware, there is nothing to prevent the minister from establishing a body—perhaps a non-statutory body—which would fulfil the functions that the Rail Passengers Committee Scotland currently fulfils. To my mind that would not be as good as having a statutory beast, but the minister could, if he thinks fit, appoint an ad hoc body to meet the witnesses' very cogent arguments that without detailed Scottish input it is hard to see how the interests of Scottish passengers can be represented in the way that the Rail Passengers Committee Scotland has represented them.

19:15

John Clare: We are a statutory committee, but one could certainly envisage a non-statutory committee that covers much the same ground as we do. The great advantage that we have is that because we have statutory powers we are able to require train operating companies, Network Rail and the SRA to give us answers to questions. They are not obliged to do what we ask them to do—it is not complete perfection—but they are obliged to answer our questions and we can go on asking those questions, like Mr Paxman, until we get an answer of some sort or can at least demonstrate to our constituents that we have no answer.

The other point is that it is much easier to fund a statutory committee. Another advantage that the Rail Passengers Committee Scotland has is that we have staff. A lot of extremely good work is being done by rail user groups throughout the UK. I am thinking in particular of the rail action group east of Scotland, which has done a lot of work on the routes eastwards out of Edinburgh, but it has no permanent funding for staff so it is entirely dependent on volunteers. That is not, in my view, a satisfactory way in which to represent the interests of passengers, who could do the letter writing for themselves. Passengers want someone who will get stuck in, go on asking awkward questions, if need be, and hold people publicly accountable for their failure to deliver services.

Robert Samson: The window of opportunity for a new rail passengers committee in Scotland seems to be narrowing, as the Railways Bill is going through the UK Parliament fairly quickly. It is expected that the existing Rail Passengers Committee Scotland will be abolished around the end of June this year and that the new rail passengers council will be up and running on 1 July.

Fergus Ewing: I thank both witnesses for their answers to that question. It is impractical and completely unacceptable, for all the reasons that they have mentioned, that we are losing a Scottish committee—one that has teeth that can be used to extract answers. The difficulty that we have had in getting information illustrates the need for such a body to have teeth.

It has been put to us that, under the proposals in the Railways Bill, the Scottish Executive will become the paymaster of Network Rail; however, the Executive will have no powers of scrutiny over Network Rail. I believe that Mr Clare has been present for most of the day. When that point was put to one of the Network Rail witnesses, the witness said that the Executive would be in precisely the same position as the Department for Transport: the person whose job it is to secure value for money and direct scrutiny is the regulator. However, the witnesses from the ORR said in evidence that the ORR does not micromanage or interfere. I raise the issue because you have gained the experience and the expertise over the years. We are considering the Railways Bill and the appropriate terms that it should contain to secure more efficient operation of a body that we are told is 31 per cent inefficient. Do you have any ideas on how Network Rail could become more accountable? Are you satisfied that it is accountable at present? Is there scope for far more scrutiny of how Network Rail operates, as far as the passengers' point of view is concerned?

From my discussions with GNER about the east coast main line, I understand that, although GNER will take the flak for an awful lot of the delays, its argument is that a large part of the delays—not the short delays but the long delays—are a direct result of Network Rail's responsibilities not being fulfilled in relation to line electrification, for example. Only recently has Network Rail appeared to accept that the failure on its part to fulfil some of its obligations is the cause of many of those delays. That is but one example—I am more interested in the overall structure, which does not allow the level of scrutiny that would help to ensure a more effective railway system.

John Clare: My brief answer to your final point is that, from the figures on the breakdown of delay minutes, it is true for almost all operators that Network Rail is the major contributory cause of the delays. As you mentioned, the overhead line on the east coast is a serious problem. I can assure you that it is being beefed up, but that will mean closures and passenger inconvenience while that work is being done. It is a case of jam tomorrow and not much butter today.

We are not in a position to give a definitive answer to your first question on Network Rail. We share your concerns that Network Rail is not wholly accountable. I think that it is correct to say that of the 120-odd members of Network Rail, one is nominated by the rail passengers network and two or three, by chance, are associated with that network—if my figures are incorrect, Robert Samson will correct them. There is talk of establishing a stakeholder advisory board for Network Rail, but we have not yet seen quite what that will mean. That board would be comprised of people who were not involved directly in the decision-making process but were more party to the process than would be the members of Network Rail, who are a nebulous group of people.

I will make a wholly personal point. The problem that you have identified is one that originates—as so many do in the Treasury—in the fact that the Treasury did not want the expenditure of Network Rail to be carried on the national accounts. In particular, the Treasury did not want the public sector borrowing requirement to have to carry any of Network Rail's debts. It is my understanding—I stress that I am making a purely personal point—that that is why Network Rail did not become accountable in the same way as many other bodies in and around the Government machine, with which the committee will be familiar. That said, to all intents and purposes, Network Rail is an independent company.

Fergus Ewing: Right. I take your final point.

Robert Samson: Another aspect is that Network Rail will be responsible for taking forward work, such as route utilisation strategies, that was previously undertaken in Scotland by the SRA. At the end of the day, those strategies will affect passengers. Basically, Network Rail sees its customers as the train operating companies and the intention is to make it more accountable to passengers. In the end, railways are all about getting freight or passengers from point A to point B. Network Rail needs to be made more responsive to passengers and to become more engaged in the process.

To return to cross-border services, one issue is the timetable that is proposed in the new franchise for the east coast main line. It is proposed that the timetable, which is very much engineering driven, will change every six weeks, which means that passengers will have to get a new timetable every six weeks. Instead of focusing on the end product—the passenger—Network Rail is focused on engineering. We want to see a service that makes passengers want to use the railway, and changing the timetable every six weeks is not passenger friendly.

Fergus Ewing: If the Rail Passengers Committee Scotland is abolished, your knowledge is in danger of being lost.

My final question arises from an observation that Strathclyde Passenger Transport made in its submission to the committee, which I suspect you have not had the chance to see. The submission says, at paragraph 2, that

"devolved decision-making is likely to produce more cost-effective outcomes".

It continues, at paragraph 3:

"This view is reinforced by comparison with Ireland. The railway system there meets a range of suburban, inter-urban and rural transport needs which are similar to those in Scotland, but does so with infrastructure costs which are appreciably lower than those on the British mainland."

We have been advised that, although the networks in Ireland and Scotland are similar and broadly comparable, the service in Scotland is twice as expensive, as a rough estimate, than the service in Ireland. That is what has been put to us. Have you any observations on why it appears that the costs in Scotland—according to SPT and the advice that we have received, at least—are so much higher than in Ireland? Do you think that devolution of the proposed powers would allow us to make any progress on having a more efficient service that is more responsive to the needs of passengers?

Robert Samson: I cannot comment on the difference between Ireland and Scotland, but I can comment on Network Rail's costs. In the last year of its ScotRail franchise, National Express had a number of minor improvements to make at stations, such as improvements to station shelters. Network Rail is the owner of the stations and it must undertake and deliver any works on them. However, the cost given to the franchisee was too high, and it undertook the work itself, sometimes at 50 per cent of the cost. Questions have to be asked about Network Rail's costs, if the franchisee can deliver the same project to the same standard for 50 per cent less. That is just for minor improvements to stations, so there are questions to be asked about Network Rail's costs to which we cannot give a definitive answer.

Fergus Ewing: Presumably, the ORR is not well placed to identify or ask any of those questions.

John Clare: It is a good deal better placed than we are. I should stress that we are concerned essentially with outputs and with the passenger experience. If we started running the railways, we would be making the same mistake that your ORR witnesses tried to avoid. The buck stops with Network Rail on those questions, and it is up to the Scottish Executive to arm itself with information to enable it to challenge the figures that may be quoted by Network Rail in response to the requests that the Scottish Executive may make about delivery of services.

Tommy Sheridan: Was there any attempt at a UK level to amend the bill to establish a specific Scottish rail passengers committee?

Robert Samson: The white paper preceding the Railways Bill put the responsibility specifically on the Scottish Executive to make its own arrangements in Scotland. Our work since the white paper came out in July last year has involved meeting various civil servants to discuss avenues for developing a separate rail passengers committee in Scotland. Discussions are on-going, but they seem to be taking a very long time. No amendments relating to the provision of a GB rail passengers council have gone through the Westminster Parliament standing committee. So far, the bill has gone through the process unamended.

Tommy Sheridan: I ask because the briefing that we received on the bill mentions the establishment of a GB-wide rail passengers committee, with one representative from Scotland. I think that that is woefully inadequate and contains a contradiction in that although we are supposedly moving towards a more devolved railway network, we are actually moving away from devolved accountability for that network because we are getting only one member on that enlarged rail passenger committee. Has any Westminster MP taken up that issue and raised the idea of a Scottish committee, or is it a done deal? Will we be unable to convince the Scottish Executive to form a statutory body? Do you feel that the new regulations confer the power to form a similar body?

19:30

Robert Samson: Yes, we believe that there are powers to form similar body in Scotland. To a certain extent, the Transport (Scotland) Bill provides an ideal opportunity for that, as that bill is running parallel with the Railways Bill at Westminster.

Westminster wants to abolish the regional committees in England, but the Welsh Assembly and the Scottish Executive can have their own arrangements. Because responsibilities and powers are being devolved, our view is that we should focus our efforts on the Scottish Executive to ensure that Scottish passengers are adequately represented. We have concentrated on that rather than on changing the Railways Bill at Westminster.

The Convener: We discussed the matter with Nicol Stephen when he gave evidence to us. It will affect the Transport (Scotland) Bill, so we may make recommendations in our stage 1 report.

Tommy Sheridan: Would Robert Samson and John Clare have input so that they could influence our deliberations? A statutory body would be an important improvement on a voluntary body. Welcome as the plethora of excellent voluntary bodies are, we need a statutory body to represent passengers.

Robert Samson: I agree 100 per cent that we need a statutory body. All of us—service providers, Network Rail, this committee—want a first-class rail network in Scotland that delivers services for passengers and which meets passengers' needs and aspirations. Passenger input to the process is being lost, but we have a chance with the Transport (Scotland) Bill to redress that. We hope that that chance is taken.

Tommy Sheridan: I assume that, from your involvement at national level, you are aware of some of the discussions on train operating companies. In particular, have you been involved in discussions on railways in south-east England?

Robert Samson: We have not been involved in those discussions, but the RPC Southern England has.

Tommy Sheridan: In the south-east rail network, the operating company Connex lost the franchise. The franchise has been run since

November 2003 as a public not-for-profit franchise. That has resulted in great improvements in all the indicators; for example, punctuality has improved and the number of complaints from passengers has fallen by 1,100. Does the RPC discuss improvements in delivery of services for customers in terms of changes in management arrangements?

Robert Samson: I can say only that the RPC Southern England has welcomed the improvements since Connex lost the franchise. The new management processes have delivered a better service for passengers which, at the end of the day, is what the RPC is about. We hope to influence operators so that they offer a better service for passengers.

Bruce Crawford: I wonder whether a point could be clarified on the powers of Scottish ministers in the Transport (Scotland) Bill. Until the bill is passed, Scottish ministers will have no responsibility for strategic planning of railways.

The Convener: The Westminster bill will be passed before the Scottish bill.

Bruce Crawford: I assume that, if it is passed, the Westminster bill will not preclude—because of the involvement of the new rail passengers council—Scottish ministers from amending their bill to allow them to set up a passengers committee in Scotland.

The Convener: No.

Bruce Crawford: Are you sure of that?

John Clare: I have certainly seen a document, which I think is in the public domain, in which the Secretary of State for Transport and Scotland says that he is not prepared to make funds available to set up separate rail passenger committees in Scotland and Wales—those would be a matter for the devolved Administrations. It would be inappropriate to expect him to make legislative proposals if he is not going to put any money behind them.

Bruce Crawford: That is clear. Thank you very much.

Iain Smith: Paragraph 61 of the memorandum covers that. It states that

"nothing in the Bill will prevent the Scottish Ministers being able to set up appropriate arrangements in Scotland."

The Convener: That brings us to the end of our questions for the Rail Passengers Committee Scotland. I thank Robert Samson and John Clare for their patience in waiting while we heard all the previous evidence. If it is any compensation, we still have two groups of witnesses to speak to.

John Clare: The passengers whom we represent often have to wait a long time.

The Convener: We move straight to our fifth panel, which consists of representatives of the Scottish Trades Union Congress. I welcome Stephen Boyd of the STUC; Phil McGarry of the National Union of Rail, Maritime and Transport Workers; and Kevin Lindsay of the Associated Society of Locomotive Engineers and Firemen. I apologise for the late running to which we are subjecting you. I am sure that Phil McGarry and Kevin Lindsay, with their experience of the railway industry, will have experienced that once or twice in the past. I hope that the fact that the representative of the trade union of which I am a member is not here—which means that there will not be any overtime payments going to the Transport Salaried Staffs Association—will save me some money on my membership subscription.

Bruce Crawford: Are you declaring an interest?

The Convener: That is it. With all due seriousness, I apologise for the fact that we have overrun considerably. Part of that has been a function of some of the information on the financial settlement for the UK Railways Bill reaching the committee only today. As a result, there has been quite an intensive process of scrutiny involving the witnesses from whom we have heard today. Without further ado, I give you the opportunity to make some introductory remarks on the elements of the UK Railways Bill that are devolved and on the financial settlement that is associated with it, from the perspective of the STUC. I hand over to Stephen Boyd to make an opening statement.

Stephen Boyd (Scottish Trades Union Congress): It is probably best for everybody involved if I give you the truncated version at this time in the evening. The late notification of our involvement today has limited our ability to contribute substantially. That said, we are delighted to contribute to what is obviously a key item of legislation that will have an impact on our members who work in the rail industry, and on members of other trades unions who use the railways and rely on the railways as a key component of Scotland's economy.

The STUC policy for some time has been that the railways should be publicly owned and publicly accountable. We welcome many aspects of the Railways Bill. Set against record levels of investment in the railways, the proposals in the bill to streamline the industry and take control of costs are to be applauded. We welcome the decision to devolve rail powers to Scotland. The STUC has always taken the view that devolution is a process. The ambition should be for use of the powers to lead to an improved rail service in Scotland—one that is better than, not comparable with, those in the rest of the UK.

I want to flag up some key areas of concern, however. Members will not be surprised to learn that our main concern is maintenance of adequate levels of employment. That should go without saying. Beyond that, I have several points to make. First, current railway industrial relations are damaged by a two-tier workforce, in which staff who were employed prior to privatisation enjoy safeguarded travel facilities while those who were employed after privatisation do not have such a guarantee.

I draw members' attention to what might seem to be a reasonably obscure point in the bill. Section 137 on page 22 of the guidance that was handed out beforehand makes it clear that the bill

"provides a power for the Scottish Ministers to promote railways staff concessionary travel, to enter into agreements concerning the provision of railways staff concessionary travel and to make it clear that any franchise agreements could include conditions with respect to railways staff concessionary travel."

This somewhat obscure part of the bill is of key interest to our members.

We are also unclear—

David Mundell: Could you restate the section that you referred to?

Stephen Boyd: I referred to paragraph 137 of the Sewel memorandum, which was provided by the clerks beforehand. It points out that paragraph 35 of schedule 1 to the bill will amend section 135 of the Railways Act 1993.

The Convener: I think that we were looking at the Railways Bill itself.

Stephen Boyd: We are also opposed to Scottish Executive agencies assuming SRA powers that will allow them to waive penalty payments to train operating companies that are involved in industrial disputes, and we would like to see that reflected in the bill's progress through Parliament. Until now, the SRA has essentially been able to bankroll industrial disputes.

Another key area of the legislation is the proposal to transfer rail health and safety functions to the ORR. We believe that such a move should be resisted. The Health and Safety Commission, the Health and Safety Executive, the Trades Union Congress and the individual rail unions have all argued that safety regulation should be one of the responsibilities of any body that makes decisions about funding and/or economic regulation. There is a real risk that safety can be compromised when economic decisions that have a safety dimension are made. Safety issues should not be used as an excuse for the industry's underlying financial problems. Fragmentation and escalating private sector costs mean that safety standards are expensive to meet; steps should be taken to address such structural problems instead of compromising independent safety regulation.

Another important point relates to consultation. We as trade unions and key stakeholders in delivering an efficient railway system would support improvements to the bill that would establish an industry-wide forum for rail stakeholders including unions, passenger groups, employers, Government and local authorities in Scotland. Such a move would be especially important with respect to potential line closures. Effective mechanisms must be put in place to consult the representatives of those who work on the railways and who are meant to deliver an effective system.

I want briefly to mention some of our other concerns. The bill seeks to abolish the SRA's duty to promote railways, so we would like to know the Executive's views on its assuming such responsibilities. We are also concerned that the Executive will have no powers over the cross-border services that are not delivered by First ScotRail. We have not had an opportunity to analyse the financial memorandum that was produced for today's meeting and the impact of such an approach.

I should also express concerns about track maintenance costs, especially the question whether the Executive will have the flexibility to cope with high unexpected costs such as the Dolphinstone situation, to which my colleagues might refer later.

That is all I would like to say at this point. We are keen to answer the committee's questions as helpfully as we can.

The Convener: Thank you for those introductory remarks. I point out that you have raised certain concerns that are not within our devolved responsibility to amend and that can only be amended by MPs at Westminster. Some issues will probably need to be addressed in that arena, as opposed to in this committee or the Scottish Parliament.

I will start off on areas for which we have direct responsibility. First, on the financial settlement that underpins the deal to give additional responsibilities to the Scottish Executive, there is a proposal in terms of the resources that are available to Scottish ministers to resource Network Rail to undertake its renewal and maintenance responsibilities, as well as new railway projects. What is the trade unions' experience of the existing resourcing of Network Rail for maintenance and renewals? Has it been sufficient in the medium term? Have renewals and maintenance improved recently? Will the resources that have been identified in the memorandum for future maintenance and renewal give confidence to the representatives of staff in the industry?

19:45

Phil McGarry (National Union of Rail, Maritime and Transport Workers): We will endeavour to answer that question. The jury is still out on the performance of Network Rail on track maintenance and renewal.

It is no secret that all the maintenance workers who were employed formerly by the infrastructure companies were brought back in-house. We welcomed that from a trade union perspective. We had due consultations with Network Rail within the collective bargaining procedure, and 1,906 positions were transferred from the infrastructure company First Engineering to Network Rail. Of those 1,906 positions, 1,680 people transferred over, so we are currently carrying 220-plus vacancies on the infrastructure and maintenance side of the business.

I was intrigued by the evidence of the Network Rail representatives, who said that the overall staffing establishment is something like 2,200. That is a misleading figure. I do not know whether it takes into consideration the 1,680 people who have transferred. They are talking to us about the maintenance cycle being extended from the current four weeks to 13 weeks. In the aftermath of the Potters Bar incident, where people lost their lives and after which there were accusations regarding the contract and shoddy workmanship, that extension is a recipe for disaster, because it would reduce the maintenance cycle. The jury is still out, but as a trade union we will be raising all those concerns within the framework of our obligation.

Finally, it is no secret that the trade union movement would prefer to see not just maintenance but track renewals coming back under public ownership. Network Rail's statistics on the cost mentioned £139 million investment for renewals. That is quite a lucrative part of the business. If it is sensible for maintenance to be brought back into public ownership under the umbrella of Network Rail, surely it is sensible from a Scottish perspective to do likewise with renewals, whether it is the west coast main line or any other project. I hope that that answers your question.

The Convener: That was a good answer. I have another question before I hand over to colleagues. Stephen Boyd mentioned that he wanted trade unions to have appropriate representation on bodies to influence the future operation of the railways in Scotland. What mechanisms should be put in place to ensure that staff representatives have adequate input to the industry?

Phil McGarry: We know that regional transport partnerships are to be set up—I think that there are five proposals. My union has made a submission on that.

I will draw on history, if I may. Before local government was reorganised there were big local authorities such as Strathclyde Regional Council. At that time, the railways were still in public hands and British Rail Scottish region was still in existence. As I emphasised when I gave evidence to the Parliament's then Transport and the Environment Committee, in those days we used to have discussions and dialogue not only with employers but with elected representatives on the former Strathclyde Regional Council, through the Strathclyde liaison committee. We cautioned councillors if their proposals to invest in extension of services were likely to create industrial relations problems for us, or we welcomed initiatives and encouraged representatives to spearhead policy decisions. That approach meant that we had a say in our destiny. We could tell elected officials and Strathclyde Regional Council, which ran services under BR, whether proposals were acceptable or not.

The union is a major stakeholder, so positive moves should be made to give us a seat at the table to allow us a say in our destiny, rather than presenting us with a fait accompli, which is not helpful to democracy. Our exclusion is contrary to the Scottish Executive's policy of inclusiveness.

The Convener: You could potentially be included in the regional transport partnerships or in the Scottish transport agency.

Phil McGarry: Yes—those are examples.

Michael McMahon: My question follows on from the convener's questions about safety and standards. I put a couple of questions to different panels of witnesses about the standards that are set and it was suggested that the base costs for the maintenance and delivery of services in Scotland are too high and could be reduced. The committee also heard that efficiency savings of 31 per cent are to be made in Network Rail's running costs. Do the STUC and the unions think that such a reduction can be achieved without reducing standards of safety and service and threatening jobs?

Kevin Lindsay (Associated Society of Locomotive Engineers and Firemen): We need to see the details behind the 31 per cent figure. Obviously we are concerned about any cuts to Network Rail's budget for delivery of services in Scotland. We are interested in the numbers of staff who are employed on the railways in Scotland, so if people are talking about reducing the number of employees by 31 per cent, I think that my colleagues in the RMT will have a hell of a lot to say on the matter. However, it is difficult to comment on what Network Rail can deliver without knowing what the organisation's proposals are. It would not be appropriate to try to second-guess the situation. If we have an opportunity to learn about the proposals, we will be able to give a more detailed answer to that question.

The Convener: I can reassure you to some extent. Network Rail advised us that it does not anticipate making significant reductions in jobs, although I am sure that the trade unions would be interested in any reductions in jobs. The witnesses from Network Rail who gave evidence earlier certainly did not indicate that they intend to make the savings through job reductions.

Michael McMahon: The witnesses from Network Rail indicated that they do not perceive a need to reduce standards. However, people who are on the other side of the fence, who witness the regular imposition of efficiency savings, regard 31 per cent as a very substantial figure, even though the financial arrangement that has been agreed between Network Rail and the Scottish Executive has been described as reasonable. We do not know the details that Network Rail might come up with, but if Network Rail receives about £302 million and wants to maintain standards, will it be able to make efficiency savings of 31 per cent over five years without jobs being affected?

Phil McGarry: I do not think that that would be achievable. Network Rail wants more for less; in that regard it is no different from the other employers with whom we negotiate. We will deal with the matter and use the processes that are at our disposal to convince Network Rail of the error of its ways.

If we want a railway industry and a service that is second to none, it must be well resourced and well funded but, more important, we must have adequate staff to do the job. We can come up with all sorts of initiatives to replace the human element, but as far as I am concerned there is no substitute for that.

You mentioned the proposed efficiency savings of 31 per cent over five years. If Network Rail comes to talk to us about that, we will deal with the matter as best we can. We will convincingly argue our position that the proposal is not achievable and that it is not a runner as far as we are concerned.

The other issue that you raise by implication is transfer of the safety function to the Office of Rail Regulation. I know that the Railways Bill proposes that safety will remain a reserved matter, but is there not a correlation between the ORR and the powers that the minister will have? We believe that to pass safety regulation to the ORR would be a gross error of judgment because there will be a conflict of interest between its economic position and the safety considerations.

In my experience of more than 25 years in the industry, the Health and Safety Commission, the Health and Safety Executive and Her Majesty's railway inspectorate are specialists in the field and there are tried and tested methods of raising issues of concern. I hope that the Railways Bill will be amended to reflect that, given the questions that will be asked by members of Parliament at Westminster. I believe that the bill contains a gross error of judgment and I hope that the minister will be persuaded by the arguments.

Michael McMahon: That does not relate to the devolved aspect, but from the committee's point of view it is reassuring to know that you are taking the issue forward with our colleagues at Westminster.

Phil McGarry: We are. It is vital that we consider what happens when, tragically, there are derailments and fatalities. Ladbroke Grove is a classic example; Lord Cullen, who was charged with the responsibility to make recommendations to the then British Railways Board, made it abundantly clear that he opposed the situation that the bill proposes. At that time the industry was nationalised and the British Railways Board accepted Lord Cullen's 93 recommendations. What has changed? Why do we have a different emphasis now? My argument and the union's argument is that if responsibility for safety is transferred to another organisation there will be a conflict of interest.

The Convener: As I said, that issue will be fully addressed at Westminster, but I put to you the explanation that was put to the committee earlier. First, the HSE staff who manage safety will be transferred to the ORR. Secondly, the ORR drew a parallel with the Civil Aviation Authority. Is that a fair comparison?

Phil McGarry: No, I do not think that it is. On the point about the function of the ORR, although the staff will transfer I still think that there will be a conflict of interest, given the economics of the situation, the financial restrictions and the role of the Parliament and ministers. One cannot ride two horses in one race. The compromising of safety is linked to financial considerations. We want a safe, well run and efficient railway, do we not?

The Convener: Absolutely.

Phil McGarry: That comes at a price. My union, the Scottish Trades Union Congress and our colleagues in the railway industry believe that safety has, since privatisation, been compromised and active demonstrations abound in relation to the fatalities that have occurred and some of the sharp working practices of contractors, for example.

Stephen Boyd: I do not have the detail to be able to answer the question tonight, but I know that the TUC did some work to compare safety in the rail industry and safety in aviation. If the committee would like to see that, I will get my hands on it and pass it on.

Kevin Lindsay: The Department for Transport is transferring the health and safety powers to the ORR, but it is not giving that body a statutory power to enforce measures, which concerns us. I hope that we can convince your colleagues at Westminster to amend the bill on that issue. We also hope that the Scottish Executive will propose a similar idea.

20:00

The Convener: I have a further question that is related to investment and to safety issues. Network Rail told the committee earlier, and has done in the past, that the amount of money that it spends on renewals and maintenance and the number of kilometres of track that are renewed per annum have increased dramatically in recent years. In the experience of the staff whom you represent, have the results of that investment shown through in better track performance or a reduction in the number of speed restrictions? Do you have evidence that the measures are improving operational reliability?

Kevin Lindsay: The number of speed restrictions has decreased in the past two years. We have a fairly good chance that, in the long term, Network Rail's investment strategy will work better than Railtrack's did because we do not now pay shareholders. The reduction in the number of speed restrictions in the past two years would probably have happened anyway, given the number of speed restrictions that appeared overnight on the railway after the horrendous incident at Hatfield.

Phil McGarry: We have had many reorganisations and it will come as no surprise to the committee that we have recognition from, and negotiating rights with, one of the main contractors in relation to repairing, maintaining and renewing the track in Scotland. You asked about our experience on the frequency of track inspections. As I said, Network Rail, which is a not-for-profit organisation, proposes that the cyclic maintenance schedule, which at the moment is four weeks, should be extended to 13 weeks and perhaps even further to 26 weeks. The reasons for the proposal are, first, to save costs, but, secondly, because some lines are underused and, thirdly, because the operation of various points in the north—in Inverness, for example—is not as regular as it is in the central belt. Network Rail is discussing those proposals with the unions, but our firm position is that they are folly because experience has shown that, if the length of the cycle is increased, maintenance and inspection of the infrastructure can be overlooked. I have tried to answer your question indirectly by saying how we see things developing in the future.

Bruce Crawford: You questioned Network Rail's figure on the number of employees that it has. Obviously, that figure will be crucial in the longer term because it relates to the argument about the base figure that the Scottish Executive will inherit. Will you say a bit more about your understanding of the situation?

Phil McGarry: Had I known that the overall number of staff that Network Rail employs in Scotland was a crucial issue, I could have given you exact figures. However, I will provide that information if the committee desires it.

Network Rail's figure of 2,200 for Scotland is a bit strange. I will repeat the comment that I made about our statistics. Along with colleagues from the TSSA, I was involved in negotiations on the Transfer of Undertakings (Protection of Employment) Regulations with Network Rail and the former infrastructure company, First Engineering; 1,680 people transferred over. The overall complement was 1,906, so Network Rail is carrying 220 vacancies. We will argue with the employers, Network Rail, that those positions should be filled.

The figures do not add up. In 1994 I had 500 signalmen employed in the former company, Railtrack; the complement of signallers is now in the region of 600 or 650. If we take that figure, along with the other figure that I quoted, and add the administration people who are based at Network Rail's headquarters, I suggest that the total employee figure is well in excess of 2,200. I do not know whether the figure that Network Rail quoted takes into consideration the 1,680 people that it inherited in May last year, or whether the figure represents the number of employees before the transfer of the maintenance staff into Network Rail.

Bruce Crawford: As far as I understand it those figures are up to date, but I do not know. It would be useful if you could write to the committee with further information about what is happening in Scotland and in the UK, so that we can question Network Rail about the basis of the staffing establishment on which it has given us figures.

The Convener: The clerks can try to clarify the figures with Network Rail.

Bruce Crawford: It would be most useful if Phil McGarry could do that.

Phil McGarry: I will do my best.

Iain Smith: It would be useful to get clarification. The financial figures that Network Rail gave were for 2003-04, so it is possible that the other figures were also for 2003-04 and would therefore predate the transfer of the maintenance staff to Network Rail.

Phil McGarry: Another national statistic is that more than 19,000 staff transferred into Network Rail from the six infrastructure companies. The

Scottish proportion of that total was approximately 10 per cent, which is approximately 1,906 people. I am interested that Network Rail now says that it has 30,000 employees on its books. I cannot get my head round the figures.

The Convener: We will need to clarify the figures. It is useful that you have raised the issue.

Fergus Ewing: We will not have power over safety issues; you described the problem clearly in that regard. However, we will have the responsibility of funding Network Rail's activities, including any extra costs that arise from rulings that are made about safety. I am thinking in particular of level-crossings, of which, according to Network Rail's figures, there are 706 in Scotland. It has been suggested that a tragic incident down south might have been caused by someone intentionally driving on to a level-crossing. In the immediate aftermath of that incident, I think that the RMT issued a statement that called for all level-crossings throughout the UK to be replaced by tunnels or bridges. Since you are here and as there are cost implications, can you clarify whether the STUC has a position on that matter?

Stephen Boyd: The STUC does not have a position, but the affiliates might have a view.

Kevin Lindsay: Funnily enough, we have a slightly different opinion from our colleagues in the RMT. We believe that technology is available for in-cab monitoring of whether people are on level-crossings. The cost of that monitoring would be passed not to Network Rail but to the train operators or the train leasing companies. As you have heard, our colleagues in the RMT, such as Phil McGarry, can speak for themselves more than adequately. The RMT is in favour of replacing level-crossings with bridges and tunnels. We have taken the slightly different view that there should be technology in cabs so that the driver gets a warning and has the opportunity to stop the train. That technology is currently available.

Phil McGarry: Fergus Ewing mentioned the RMT's position and it is worth repeating. The general secretary's view was that level-crossings are accidents waiting to happen because there is room for human error. There are people such as the unfortunate driver who allegedly fell asleep, crashed into a barrier and caused the accident that occurred. The view is taken that perhaps the investment should be made regardless, because members of the public need access points so that they can cross railway lines. Perhaps the answer lies in bridges or underpasses, although substantial costs would be involved. That is the position that the unions have adopted and it would be more than my job is worth to go against it. [*Laughter.*] What kind of answer did you expect?

Fergus Ewing: Will you describe some of the sharp practices to which you referred earlier?

Phil McGarry: Did I say "sharp practices"?

Fergus Ewing: Yes.

Phil McGarry: What was I referring to?

Fergus Ewing: Contractors.

Phil McGarry: When I say "sharp practices", I mean that there is anecdotal evidence that people were not inspecting the tracks properly and were not maintaining the points. That came out of the Potters Bar accident. There was a question about whether the main contractor was liable and prosecutions took place. That is an example of what I was referring to.

The Potters Bar incident was supposed to have been about the movement of the points—they are called FPLs, or facing point locking systems, in the industry. Network Rail, which runs and controls the infrastructure, suggests that the maintenance cycle will increase rather than stay at its current length in order to demonstrate that it is a not-for-profit organisation according to the remit that Alistair Darling, the secretary of state, has given it. I think that the actual phrase is a "not-for-dividend" organisation.

David Mundell: The subject of the accountability of Network Rail has arisen several times during our discussions with the various panels and was raised specifically by the passenger groups to whom we spoke before you came in to the meeting. Does the STUC, or do the individual unions, have a view on the accountability of Network Rail with regard to its decision making in general and, more specifically, its ability to be held to account for the costs of its activities?

Phil McGarry: Clearly, that is linked with bringing the industry back into public ownership, with clear accountability. That is a political decision that will have to be made, if it is the will of the Parliament at Westminster.

I respectfully suggest that the committee must use its powers to make Network Rail accountable. At the end of the day, we are talking about taxpayers' money. No one has been accountable in the past for the waste that has been incurred in the SRA funding industrial disputes. National Express received £12.5 million in payments to offset its loss of revenue during the industrial dispute of 2003 when my members were in conflict with the company. That cannot be right; it is not cost effective. However, the SRA underwrote that cost and intervened in the dispute, which meant that there was no willingness to settle. We need some level of accountability.

David Mundell: From what we have heard today, does the suggestion that Network Rail is 31 per cent inefficient sound about right?

Phil McGarry: I did not hear all the evidence that was given, because I was not paying much attention. Some of the stuff that was said beggars belief. However, that is my personal view and, as a trade union official, I am biased.

David Mundell: We will take that into account.

The Convener: What are your views on the allocation of resources that will accompany the transfer of powers from the SRA to the Scottish Executive? Some £7.5 million, I think, is being provided for the SRA functions along with a number of staff, which is likely to be in the region of 30 to 40 employees. Will those resources be sufficient to provide the Scottish Executive with the necessary expertise to advance the major rail enhancement projects that are part of its programme for the new strategic transport agency?

20:15

Kevin Lindsay: Again, none of the trade unions has any representation in the SRA, the staff of which are currently based in London. According to our information, the SRA may struggle to persuade its employees to move north. However, it is difficult for us to answer the question because we do not represent those employees.

The Convener: That ends our questions. I thank Stephen Boyd, Phil McGarry and Kevin Lindsay for waiting patiently while we heard evidence from other witnesses. We look forward to hearing from you again in the future.

Fergus Ewing: Convener, may I make a point in this intervening pause as the witnesses change?

The Convener: Certainly. I am amazed that a shy and retiring person such as Fergus Ewing should want to make another point.

Fergus Ewing: On the Ernst & Young document that was handed to us circa 7 pm—

The Convener: Just a second. I must have a quick conversation with the clerk.

Sorry, please continue.

Fergus Ewing: The slim volume from Ernst & Young, which is entitled "Scottish Executive—Rail Infrastructure Review", does not seem to provide much detailed explanation. It does not even explain the points that have been made by witnesses who have had the benefit of seeing the Ernst & Young final report, which I think the people from Network Rail or the Office of Rail Regulation said was published on 20 December. Plainly, that final report must be available. Given that the civil servants are before us now, can we ensure that we receive from them that final report first thing tomorrow morning? In the limited time that will be available to us, we need to be able to read the full final report.

The slim volume that we have does not, by any stretch of the imagination, provide sufficient information and data to enable us to deal with issues such as that final point about the number of employees. It is now after 8 pm, but we have only just learned that the number of employees is subject to dispute by the unions. Like us, the unions have not had an opportunity to go into any of those issues beforehand. Can we have that Ernst & Young final report, please? If not, will the Executive witnesses explain why not, given that other witnesses have had the report since before Christmas?

The Convener: I thank Fergus Ewing for that point, to which I am sure Kenneth Hogg will respond during his introductory remarks. From a note that has been passed to me, I understand that the full Ernst & Young report should be available to committee members by tomorrow afternoon. However, as Fergus Ewing pointed out, members would find it far more useful to receive the report by the start of tomorrow's proceedings, during which we will consider our recommendation on the Sewel motion, which we must complete prior to 2 o'clock tomorrow afternoon.

I welcome Kenneth Hogg and Dougald Middleton and thank them for attending at this point in the day, which is later than many of us expected. I will be guided by the witnesses on how best to proceed. It may be useful if they can respond to the points of clarification and discussion that have been made or they may wish to make some initial remarks about the paper that the Executive released today in response to a parliamentary question. Alternatively, they may want to provide that clarification simply by responding to members' questions. Whichever way we proceed, it would be useful if they could respond to the point that Mr Ewing made just before they took their seats.

Kenneth Hogg (Scottish Executive Enterprise, Transport and Lifelong Learning Department): I head up the rail function in the Scottish Executive. I am accompanied by Dougald Middleton, who is a partner with Ernst & Young, which has helped us with the work that we have been doing over the past several months

We have brought with us a very concise summary of a much larger report. We are happy to provide the full report to the committee before the minister gives evidence tomorrow. We will accompany the minister to answer further questions on the full report. Discussions with the Department for Transport were concluded this morning and the full report is being finalised as we speak to take account of the final outcome of those discussions. We will make it available tomorrow morning, before the minister gives evidence on it.

I suggest that we talk through the concise version of the report tonight, to explain how the specific numbers were derived. I refer especially to the figures for infrastructure in Scotland, to which the report refers. However, I would be happy to answer questions on any of the issues—both financial and broader policy issues—that are covered in the paper that was sent to the committee this afternoon.

The Convener: That would be useful. It is helpful that you have indicated that you will be able to make a copy of the report available to the committee before the minister gives further evidence tomorrow. I encourage members to ask questions of clarification and to keep the broader policy issues to the minister's appearance before the committee tomorrow. Please take us through the figures in the report and explain how they were derived. We will then ask questions.

Kenneth Hogg: The report refers specifically to the cost of the infrastructure in Scotland. It refers not to the number for the SRA, but specifically to Network Rail costs in Scotland. I invite Dougald Middleton to talk through the report step by step and to explain specifically how the final figure of £302 million was derived.

Dougald Middleton (Ernst & Young): We were commissioned to identify the key operating costs of Network Rail assets and business in Scotland. We have produced an overview of the financial requirements and have cross-checked those. The technical consultant LEK Consulting was employed by the Executive to examine some of the technical and risk issues relating to asset conditions and the efficiency of the network in Scotland. In our final report, we have brought together those two key pieces of work to provide a summary of the overall financing requirements of the network.

Our approach to the work was to adopt a structure consistent with the approach that the ORR took to the recent price review at GB level. That approach involved a series of building blocks which effectively identify all the costs and revenues that are associated with operating the fixed rail network and financing the activities of Network Rail in Scotland. On a step-by-step basis, we have disaggregated at Scottish level the GB control period 3 settlement—the previous regulatory review. Where possible, we have also tried to build up from the bottom, through information requests to Network Rail. We have taken both a top-down and a bottom-up approach, in order to get a degree of comfort as to the robustness of the figure for the overall funding requirement. That exercise has been broadly successful and the numbers that we have identified have been broadly agreed by all the industry players.

I shall come back to the financing and funding requirements in more detail in a minute. With regard to the technical overview, the conclusion that LEK came to was that, in broad terms, the overall performance of the network in Scotland is no better or worse than that of the network in the rest of GB. There were a number of areas where the Scottish network had actually outperformed its performance targets, both specifically and relative to the Scottish network. In particular, the Scottish network was identified as being more efficient in some of the operations and maintenance work that was being done.

In overall terms, however, the different operating characteristics of the network in Scotland—particularly the lighter usage on some rural lines than is the case on average across GB—meant that Network Rail could still get the same levels of efficiencies as the GB average. For the purposes of the analysis, we have assumed the ORR's 31 per cent average on efficiency gains as being applicable in Scotland, and the analysis that we have been able to do tends to back that up.

The table on the next page identifies the allowed railway operating costs for Scotland. The detailed report shows how those costs are made up, but in outline terms they are made up under a number of headings: maintenance expenditure; controllable opex; non-controllable opex; and schedule 4 and schedule 8 costs, which are effectively the TOC Railtrack penalty regime, where money is attributed for delays and for taking possessions on the railway. Those are effectively the opex costs that are associated with running the network in Scotland, and I think that some of the questions that the committee was addressing to Network Rail witnesses on the overall level of funding and the levels of expenditure in Scotland were on the specific issue of how much is being spent on operations and maintenance, looking back and looking forward.

There are two other major cost headings that are allowed by the regulator. The first one is the allowed return on the RAB, which is effectively at 6.3 per cent on the allocated RAB value. The next number, which is essentially also a financing number, is the amortisation allowance. That effectively allows Network Rail, over the rest of CP3 and over the next 30 years, to repay the cost of the network. That amortisation number in particular is different from the previous CP2 settlement that the ORR allowed, and is responsible in itself for a significant proportion in the uplift in funding that Network Rail has obtained as part of the CP3 settlement.

In net terms, the allowed operating costs, which you see across the top of the table on page 4, are effectively the sum of those various headings for Network Rail's operating costs at the Scotland level.

Network Rail then goes on to finance its own part of the business from three main sources. The first one is the track access charges, which are payable by ScotRail to the company for the use of the network. That budget line effectively comes from the Executive, because the Executive finances the train operating company through the SRA. The next line is the grant payments from the Scottish Executive, which we have calculated to be on average £275 million per annum. That is one of the core numbers that makes up the £302 million.

The figure of £275 million is the average yearly funding requirement in the last three years of the CP3 review. The reason for using the last three years is that it is suggested that the devolution settlement will kick in in 2006-07, not in 2005-06, but also because the DFT was, in effect, short of cash following the CP3 review and allowed Network Rail to borrow additional money—the figures of £155 million and £157 million were the Scotland proportions—put it on to the RAB and amortise it over the 30 years starting from 2009-10. That gives us the total funding requirement. The settlement between the DFT and the Executive that has been set out is based on the average of the funding requirement in the last three years of the CP3 review, which is £275 million, plus £27 million per year, which is the number that is required to amortise the £313 million that Network Rail borrowed in the first two years.

I will stop there. Are members happy with that explanation of the numbers?

20:30

The Convener: We will find out during the questions.

Dougald Middleton: Okay. One key assumption that underlies the numbers is that there will be a 10 per cent RAB allocation, which I am sure members will have questions about.

The next table sets out for CP3 the expenditure that has been allowed by the ORR for GB in total. The table also shows the assumed allocation for Scotland, which bounces around from 9.7 per cent to 9.5 per cent in the main headings. That is because we have tried as far as possible, based on the information, to identify the actual costs looking backwards and forwards that Network Rail has incurred or will incur for Scotland. Where we could not identify the numbers, we have agreed on what seemed a reasonable allocation methodology. It has been impossible to tie down all the numbers.

The single till income is income from stations and retail outlets. The fixed access charges and the variable track access charges are included for information as much as anything. Members may have picked up that that was one of the metrics that the DFT suggested as being the methodology for allocating the RAB. The ORR is considering the structure of track access charges on a GB basis because it realises that the allocation of 6.8 per cent for Scotland is wrong, as are the other allocations throughout GB. In the review that the ORR is carrying out, it is trying to allocate costs and revenue more accurately throughout the network.

That is all that I want to say about how the costs have been built up, but it is important to highlight three key issues before I finish. The first is that how the ORR treats renewals expenditure in the CP3 settlement is different from how that was treated previously. Previously, renewals expenditure was financed as a normal part of Network Rail's operating expenditure, but, in the CP3 settlement, all renewals expenditure is logged to the RAB, so it is treated as capital rather than revenue expenditure. Therefore, renewals expenditure is not in the revenue lines, but the ORR's changes have allowed the RAB to increase and for the cost of servicing the RAB to increase in proportion to that.

The second matter that is not in the figures is enhancement expenditure, which has been treated separately.

Finally, on the income side, the analysis has been done in such a way that track access charges from cross-border services have been set against the funding requirement from the DFT. In effect, the DFT collects track access charges from GNER and Virgin and in exchange a larger settlement goes from the DFT to the Scottish Executive. That is a zero-sum game; it has been done in that way for simplicity.

The Convener: That last point is useful. I was going to ask where the track access income from cross-border passenger and freight operators appears, because that is referred to in the document that we received from the Executive today. I would be interested to hear whether you have any indication of the level of that zero-sum balance, in terms of the allocation to Scotland.

My first question is about the first paragraph on page 2 of the Ernst & Young report, which states:

> "Further, more detailed, information relating to both the Scottish region and centrally controlled costs was requested but was not made available due to the structure of Network Rail's financial reporting systems. This information was required in order to understand the detailed breakdown of the central costs and the information available on which to base an allocation to the Scottish region."

How much of a problem is that caveat for the future, given the assumptions that have been made in the allocation of costs? What is happening within Network Rail to ensure that the financial systems can identify those costs in future?

Dougald Middleton: Both Ron Henderson and Paul Plummer made the point in their evidence that they run their company at the GB level. Some of their systems do not spit out information in quite the way that we required in the exercise because of how they hold information, particularly in relation to central overheads and procurements that are run centrally from London. That is not a criticism of the systems, which were simply not designed to do what we asked them to do.

As I said in my introduction, to cover the problem we tried to look at the matter from the top down and from the bottom up to gain a degree of comfort that the numbers were, as far as possible, broadly right. I think that we achieved that. If one digs down into any individual budget line, the level of assurance that one can get at the micro level is possibly not as high as it would be if one had disaggregated reporting, but one has to take a view on the materiality of the information.

In order to deal with the matter as we go forward, we discussed with the Executive the need for the ORR to issue revised regulatory accounting guidelines that will make the provision of disaggregated reporting a licence obligation on Network Rail. I know that the Executive has, rightly, requested that from and recommended it to the DFT and the ORR. That will provide in much more detail the information that would have assisted us with the assignment. It would not have been possible to get more information on the areas within the timescale for the current report.

The Convener: What margin of error would you attribute to the figures for which assumptions have been made, in percentage terms?

Dougald Middleton: When the ORR undertook and completed the CP3 review, it faced the same issues that we faced in the disaggregation exercise. The ORR built in not a margin of error, but a risk cushion, which recognises that a degree of risk is associated with some of the possible outcomes. That risk cushion comes in a number of ways, including the risk premium that is built in to the allowed return: the return that Network Rail gets on the RAB is higher than the direct cost of its financing, so surplus revenue is built in. In effect, the amortisation allowance is there to repay debt, but ultimately Network Rail has the management choice that any business has, particularly in the short term, between repaying debt and using the money for something else. A number of Network Rail's safety costs are effectively pay as you go. If Network Rail either exceeds or expects to exceed its planned costs by 15 per cent, it can reopen its funding position with the ORR. There are a number of buffers that deal with general risks.

Kenneth Hogg: It was possible to find activity being carried out in Scotland for the vast majority of costs that have been identified. In a small minority of cases where there were central overheads, we agreed with Network Rail and the ORR an explicit percentage in order to disaggregate those costs. Such cases account for a small proportion of the total sum. In most cases, we have figures that relate to activity that is being carried out in Scotland, as opposed to assumptions or extrapolations.

The Convener: Are you able to give us a broad figure for the margin of error that may be attributed to the figures? You said that Network Rail can go back to the ORR if there is a 15 per cent variation in costs. Presumably, the margin of error is not as large as that.

Dougald Middleton: I cannot give you a straight answer to what is a straight question—not because I do not want to, but because this is a very complicated issue. You would have to dig down into Network Rail's financial analysis for the CP3 review to gauge what action against outturn has been. Railtrack was not particularly good at estimating what its costs were going to be and suffered from significant cost overruns, especially on the renewals and enhancements side of its business. The CP3 review has examined that explicitly in the round and made global allowances for risk. If you had asked the witnesses from the ORR the question that you have just put to me, I do not think that they would have been able to answer it in great detail. That is what they tried to do during the CP3 review and although they probably managed to come up with answers in certain cases, they ended up having to deal with the matter at a global level, which is probably the right way of doing it.

The Convener: The table on page 4 gives the figure of £87 million for ScotRail track access charges in the current and forthcoming financial year. However, in a statement that it gave to the committee earlier today, Network Rail referred to a figure of £191 million for passenger access charges. I realise that the figure that you have supplied does not include GNER and Virgin, but it seems unlikely that they would make up the difference between £87 million and £191 million. They are probably small players when it comes to track access charges. Can you explain the difference between the two figures?

Dougald Middleton: I understand that the Network Rail figure is for 2003-04 and precedes the CP3 review. Track access charges were restructured and the balance changed a bit for the next review.

The Convener: Was the change dramatic—of the order of 50 per cent?

Kenneth Hogg: In 2003-04, ScotRail's fixed track access charges were around £140 million. Those charges dropped to the £87 million for 2004-05 that is given in the table on page 4. There was a dramatic fall in access charges in 2004-05, just as there is a dramatic increase in 2006-07 as a consequence of the additional borrowing that Network Rail was allowed coming to an end, although there is some offsetting in the increased amount of grant that is to be paid to Network Rail in lieu of those access charges. As Dougald Middleton said, I think that the £191 million figure is the sum of the higher ScotRail track access charge and the charges for the other cross-border operators.

20:45

Dougald Middleton: Let us take the ScotRail track access charges figure for 2006-07 as our starting point. Bearing in mind the difficulty in making such allocations—that is the reason why we have netted off the figures against the DFT settlement—we estimate that allocating the west coast main line and GNER track access charges on the basis of train miles would add between about £30 million and £35 million to the £153 million figure that is given in the table. Lest I mislead the committee, I should clarify that the freight charges have been netted off the allowed railway operating costs. Those charges are relatively small—about £7.5 million a year—but they have been taken into account. Therefore, adding about £35 million to the £153 million that is given in the table produces roughly the same number that the convener mentioned.

The Convener: Before I throw the discussion open to members, I have a final question on the profile of the "Allowed Railway Operating Costs" total. In the table on page 4, that total declines gradually over the course of the five years, from a total of £466 million in the current financial year to £422 million in 2008-09. Can that be explained by a declining need for investment in the railway or are there other explanations for that declining profile?

Kenneth Hogg: That change reflects the application of the efficiency targets for Network Rail that were set by the regulator. He determined that Network Rail would require increasingly less income if it met its efficiency targets, which were set at 31 per cent. That is the main reason underlying the decline in allowed railway operating costs.

The Convener: Can we be provided information on what that declining costs profile is likely to mean in terms of the number of kilometres of track renewal that is anticipated over the period? Is information on those sorts of tangible issues available?

Kenneth Hogg: How Network Rail meets its efficiency targets is a matter for Network Rail. However, the sort of actions that it has taken to achieve those efficiency savings are things such as bringing maintenance in house and taking a smarter approach to renewals by comparing costs across different regions in order to flush out which are the more expensive and which the less expensive ways of doing things. Network Rail aims to meet its target by doing those kinds of things.

If we asked Network Rail, I am sure that it would say that it will not achieve the target by carrying out less activity, such as by servicing less track. Indeed, Network Rail is obliged to deliver outputs at the level that is set by the regulator. Network Rail is not permitted simply to stop renewing or maintaining a certain amount of track in order to meet its targets. It is required to achieve a genuine efficiency saving rather than a decrease in the scope of its activity.

Dougald Middleton: Members will see in the detailed report that the reduction in the allowed railway operating costs is completely driven by reductions in maintenance costs and by reductions in controllable opex. Those are the two costs that move across the period.

The Convener: I will bring colleagues into the discussion. David Mundell will be followed by Iain Smith and then by Fergus Ewing.

David Mundell: This question may be for the minister, but it follows on from today's evidence. The witnesses from the ORR said that they had submitted a number of different ways in which things could have been done. Were Ernst & Young involved in the process of evaluating the different options and then coming to the view that what is set out in the report was the best way of doing things? Alternatively, was it in effect a political decision to do things on this basis?

Kenneth Hogg: This is a key issue and it is important that we should discuss it. Over the many months of the process since the outcome of the rail review in July, we have agreed the approach with the various parties involved. For example, all the numbers in the analysis have been verified by Network Rail and our methodologies have been overseen by the ORR. There is no contention over how the final figure was arrived at. The issue that was discussed earlier was to do with the regulatory asset base. One component of the figure of £302 million is the assumption on the opening value of the Scottish element of the RAB. You are right to suggest that several different methodologies could be used to calculate that opening value. Some of them were discussed earlier this afternoon.

Given that the regulator will, in any case, be conducting precisely this exercise over the next few months to establish properly an opening value for the RAB, we have agreed with the DFT that, rather than taking a punt just now, the final figure to be transferred to the Executive should reflect the final ORR determination of the size of the Scottish RAB, after representations have been taken from ourselves, from the DFT and from all other parties. We have said that we expect the figure to be close to 10 per cent, which percentage has been used in order to generate a figure today; but that is not to say that the final figure to be transferred will be based on that figure of 10 per cent—unless the ORR were to conclude that 10 per cent was in fact the precise figure. The debate is only about the RAB component and not about any of the other components of the figure.

David Mundell: Could the 10 per cent figure actually be in a range from about 6.5 per cent to 13 per cent, to use figures that have been mentioned? Alternatively, will it be in a range from 9.5 per cent to 10.5 per cent? A small variation might not be significant, but a variation to 6.5 per cent or 13 per cent would be very significant.

Kenneth Hogg: If we considered extremes in the possible methodologies, we might, at the bottom end, consider the figure on page 5 of 6.8 per cent for fixed track access charges. We might then say that that somehow reflected the size of the asset in Scotland because it is a measure of how heavily the asset is used. At the top end, we might take a figure that is linked to the amount of track in Scotland and so come up with a figure that is significantly higher—well in excess of 10 per cent and getting close to 13 per cent.

In theory, the range to be debated is therefore as wide as you suggest. However, in our discussions with the ORR and the DFT, none of us believed that the extremes were likely. The figure of 6.8 per cent is highly unlikely. The ORR is reviewing access charges precisely because even it does not believe that the figure is an accurate reflection of the current state of play. Both we and the DFT believe that the outcome will be close to 10 per cent.

I want to make one more point about the RAB, relating to points that were made earlier in the afternoon. To some extent, the Scottish Executive and Scottish ministers are indifferent to what the final RAB figure actually is. It is not the case that the higher the figure that is set, the more money we get and the better off we are. Once the regulator sets the RAB, we will be given a sum of money that is sufficient and no more to fund that RAB and the debt linked to it. That money is passed straight through the Executive back to Network Rail. We can consider the extremes. If the ORR concluded that the figure should be 5 per cent, which is highly unlikely, the Executive would be indifferent to that, but the Executive would be equally indifferent if the ORR concluded that the figure should be 15 per cent, because the money just passes straight through the Executive.

There is one respect in which the size of the RAB is relevant and that is to do with the amount of risk that can be absorbed within the Scottish set-up, particularly from CP4 onwards. We discussed that in more detail. Therefore I would not say that it is a matter of the Executive being completely indifferent, but we are not in a numbers game whereby we are bidding the figures up and the DFT is bidding them down. To a large extent, both the DFT and the Scottish Executive are indifferent to the outcome. It is the ORR's job to make sure that it all adds up to 100 per cent.

David Mundell: Mr Middleton, are you satisfied with the Executive's approach to the RAB?

Dougald Middleton: Kenneth Hogg's explanation of the sensitivity to the level of the RAB is absolutely correct. There is no correct methodology for doing what we are trying to do here. It has never been done before. We are trying to get a settlement that matches costs with liabilities, and income with expenditure in Scotland so that we get an accurate reflection of what it costs to run the fixed rail network in Scotland. That is one of the key drivers of the discussion.

David Mundell: Another issue that has come up is a matter on which there does not appear to be complete consensus, although perhaps that is a matter of interpretation. On what basis have you worked to determine the physical terms of the asset? Is there is a consensus on what the asset is physically?

Dougald Middleton: The physical asset is everything that is within Scotland—that is, the heavy rail network.

The RAB is a financial creation; it is not about the value of the asset but about the level of finance that Network Rail needs to fund its on-going activities and the risk that it runs as a business. The RAB is a financial concept rather than a physical one.

David Mundell: It is affected by whether there are 5,000km or 4,000km of track.

Dougald Middleton: No. I will come on to that point because I saw that there is going to be some questioning on that.

To some extent, that is not the case. Essentially, we have identified Network Rail's operating costs in Scotland. If the RAB transfers across at X, a Y tranche of debt comes across and, as Kenneth Hogg explained, you have to keep all that in proportion.

A question was asked about the size of the network. Our number for the size of the network is similar to that which Ron Henderson gave. We have 4,190km; I think that he gave the figure of 4,140km. The total of 5,489km represents the addition of the 4,190km of non-electrified network and the 1,299km of electrified network. We have not had time to check this out, but our suspicion is that in Scotland there is no purely electrified network—diesels and electrics run on the same network. We suspect that those two numbers should probably not be added together.

21:00

The Deputy Convener (Bruce Crawford): Are you happy, David?

David Mundell: Yes. I cannot promise to remember the formula with the Xs and Ys.

Iain Smith: You may have touched on this point while I was having a discussion with Bruce Crawford about trying to understand the RAB. The first question that comes to mind after what you have said is whether there is any point in including the RAB in the transfer. Would it not be more sensible to have the figure dealt with by the Department for Transport and to forget about it in Scotland? It seems to be a fairly extensive piece of bureaucracy to calculate what the figure is only to transfer the money from one department's pocket to another department's pocket and, in essence, send it back to where it started.

Kenneth Hogg: To a large extent you are probably right. However, we will physically have to hand over money so it is sensible that both departments budget for that by having a credible figure in play now. I said earlier that we are largely indifferent to what the figure is, but there is one circumstance in which the figure is material. That relates to our ability to absorb risk. Broadly speaking, the higher the Scottish element of the RAB is, the higher the level of contingency and risk is that we can absorb within Scotland. If, for the sake of argument, the ORR came out with a ludicrously low value for the RAB, that could significantly affect our ability to take on risk in Scotland.

One of the previous witnesses mentioned the Dolphingstone incident, where the track was subsiding over mine workings. Our ability to cope with such occurrences depends in part on the size of the RAB that is allocated to Scotland. Apart from that issue, you are right to say that it is to some extent an academic exercise, to which the final answer will be provided in a few months' time by the ORR.

Iain Smith: One of the issues that I raised earlier with Network Rail was a matter such as the Dolphingstone incident, a major landslip or a bridge disaster of some sort. Under the financial settlement that is being proposed, how would something that may cost a fairly substantial percentage of the Scottish budget be dealt with? Such costs would currently be absorbed by the whole of Network Rail across the UK. How would that be dealt with under this settlement? Are you suggesting that because of the risk and contingency there might somehow be additional moneys available to meet the cost of dealing with such an incident?

Kenneth Hogg: For the current control period, which ends in 2008-09, we will continue on the current basis: incidents such as Dolphingstone would be funded from Network Rail GB's contingency back pocket. Once the settlement is fully implemented, on the assumption that the ORR agrees that there should be dual price control in Scotland so that there is complete disaggregation and complete cost separation and scrutiny in CP4, the financial risk for matters such as the Dolphingstone incident would be borne within Scotland. It is important to point out that within the figure of £302 million there is a built-in contingency buffer, which the regulator has added into the GB settlement, of 15 per cent. If events happen in the future, so long as they do not amount to more than 15 per cent of Network Rail's allowed expenditure, it must meet that from within its own resources, with no further recourse to the Executive. In the event that that limit was breached, Network Rail would have the right to go to the regulator to seek to reopen the question of its funding requirement.

Iain Smith: Would that 15 per cent include the amount for the RAB?

Kenneth Hogg: Yes. The RAB is relevant to the capacity to absorb that expenditure. I will defer to Dougald Middleton to give you the technical explanation.

Dougald Middleton: The committee might be happy to take numbers that are in the round; we could drill down into much more detail. The transfer of plus or minus 1 per cent on the RAB to Scotland effectively brings with it a transfer of revenue to support that RAB of somewhere in the region of £25 million. The figure changes across the control period, but we will use £25 million as a round number

From that £25 million, Network Rail must service its debt. The ORR has already calculated the figure for that, which is about £8 million per annum. In addition, it must amortise the regulatory asset base—in effect, pay down the debt that has been taken on since privatisation and for renewals work. That will cost £13 million. In effect, £21 million of the £25 million is swallowed up by costs that are mandatory for Network Rail and about which it has little choice. Other than in the short term, there is little that it can do about those. A risk premium of £4 million per annum is left. As

Kenneth Hogg said, for the rest of the CP3 settlement we are dealing with risk that is pooled on a UK basis and to which we are relatively indifferent. If the ORR introduces separate price controls for CP4 and the risk must be absorbed in Scotland, stylistically the £4 million is the first cash cushion that Network Rail has.

Iain Smith: Are you saying that if 10 per cent of the RAB were allocated to us, Network Rail would have a contingency fund of £40 million?

Dougald Middleton: Yes.

Iain Smith: I am trying to marry the figures on page 5 with those on page 4. I assume that one does a straight percentage calculation from the CP3 average total to get the Scottish bit of CP3.

Dougald Middleton: That is right.

Iain Smith: If we add everything up, it comes to more than £2,213 million. I am a bit confused about the access charges. Are those a positive or a negative figure?

Dougald Middleton: The single till income is a negative figure. It is income, as opposed to a cost. The table is meant to illustrate the relative scale of allocations across the headings. It is not really designed to do what you are trying to do with it.

Iain Smith: I am trying to work out where the figure comes from.

Dougald Middleton: As Kenneth Hogg said, we tried to identify costs at Scotland level or, if we were unable to identify the costs for some central overheads and centrally procured services, we reached an agreement with Network Rail on a sensible allocation of costs. That allocation is shown by the percentages in the second column.

Iain Smith: In your presentation, you mentioned the fixed and variable track access charges, but I did not quite follow what you were saying about them.

Dougald Middleton: The table shows the current figures for the charges as a percentage of the GB total.

Iain Smith: It seems to be suggested that they are a cost to Network Rail. Presumably, Network Rail gets the track access charges.

Dougald Middleton: That is right.

Kenneth Hogg: The figures on page 5 are the GB total figures. We are saying that, over the five-year control period, Network Rail gets income of about £7.5 billion in fixed track access charges and about £1.5 billion in variable track access charges.

Iain Smith: That is the point that I am trying to clarify. At the moment, the charges are shown not as income but as a cost.

Dougald Middleton: The table may be a little confusing. It is meant to illustrate the inputs to the analysis, rather than to do what you are trying to do.

Iain Smith: I am trying to compare the figures on the same basis as other single till income, for example, which is shown as a negative figure—or a positive figure, if we look at it the other way round. The fixed track access charges are indicated in the same way as maintenance, but they are to be netted off the totals, in a sense.

Dougald Middleton: The report that we will submit tomorrow is based on a building blocks approach and will show all the pluses and minuses that have been netted off to produce the bottom-line costs and revenue requirements.

Iain Smith: You mentioned the SRA, which is not included in this table. The figures for the SRA include 25 per cent that remains with the Department for Transport. Some of that relates to activities that do not transfer to the Scottish Executive, such as safety and Rail Passengers Council funding, but there is also an efficiency gain assumption. What is that assumption? How much of the £25 million in question represents the efficiency gain?

Kenneth Hogg: The answer is in two parts. A 5 per cent efficiency gain applies to the relevant elements of the SRA budget lines, which comprise 75 per cent or so. We can operate 5 per cent more efficiently than the SRA does on its 2004-05 budget. The DFT is also making assumptions about future efficiency gains that it can make. In addition to that 5 per cent, some of the activities that are currently being carried out within the SRA will not need to be done by the Executive in future. For example, the SRA's rent and information technology systems cost it money. We are creating an agency that will bring with it rent and IT and so on, so we are forgoing that element. The SRA incurs professional fees for audit and so on. Audit relates to the fact that there is a body to be audited. In future, there will be no such body to be audited. In reaching the figure of £7.5 million, we are forgoing some of that activity.

The Convener: What is talked about, in relation to the figure of £302 million, is the 10 per cent of the RAB for Great Britain. Would I be correct in saying that the £302 million derives from a needs-based calculation as opposed to being a representative percentage of the RAB for Scotland? The important figure is the £302 million that is being driven by a needs-based assessment of Network Rail's investment in the network.

Kenneth Hogg: Yes. The £302 million comes from the starting point of the rail regulator's review, which took effect from 1 April 2004. The review considered Network Rail's need going forward, so to that extent it is a needs-based approach. However, part of the £302 million comes from the assumption that is made about the RAB element, which is purely a financial pass-through mechanism. It is arguable whether the RAB element is as needs based as the other elements, but the expenditure on the track—the operational and maintenance work—is needs based. It is determined by the regulator as what he thinks the company needs to deliver the outputs that he sets.

Fergus Ewing: Did Mr Middleton have the chance to read the *Official Report* of the meeting of 2 November, in which the Minister for Transport responded to points raised by the committee?

Dougald Middleton: I am not sure that I did.

Fergus Ewing: In that meeting, I referred to the figure that I quoted earlier—the 5,489km total track length. I quoted that figure because the Scottish Parliament information centre says that it is the Scottish Executive figure. SPICe adds that the route length, which I believe is different, is 3,034km. Earlier today, we were presented with information from Network Rail that it is working on the basis of a total track length of 4,140km. Which one is correct, and in what way is the cost of maintaining the extra track length—the difference between the two figures, which is about 1,300km or 1,400km—taken into account? It is impossible to understand those discrepancies when one is presented with the data at the stroke of midnight, as has happened today.

21:15

Dougald Middleton: As I said, I recognise the figure of 4,190km, or 4,140km. I cannot answer for the information that is on the SE database but my explanation—I have not had time to verify it, but I suspect that it is right—is that there is an element of double counting. The east coast and west coast lines that come into Scotland are electrified but they have diesel units on them as well.

Fergus Ewing: Is that Mr Hogg's explanation?

Kenneth Hogg: We have not had time to check how the larger of the two figures was calculated. From the numbers that we have seen tonight, the most likely explanation is double counting. To be clear, the numbers that have been agreed with the DFT are the Executive's call, albeit that they are based on advice from Ernst & Young. We are content that the figures that Ernst & Young used for the number of track kilometres in Scotland were verified by Network Rail as part of the process. The extent to which that is relevant depends on the methodology that is used to calculate the RAB, and the ORR will probably take at least six months to conclude that process. To the extent to which track kilometres are taken into account in the calculation, we will certainly make sure that there is an agreed length of track in Scotland.

Fergus Ewing: Yes. Well, the figure that I quoted is not my figure; it is the Executive's figure, according to SPICe. SPICe could have made a mistake—everyone can make mistakes—but if it has not and that is the Scottish Executive's figure, 1,300km of rail track are unaccounted for. That seems to me to be something that should be explored.

The Convener: Somebody has stolen them, perhaps.

Fergus Ewing: If the correct figure is 5,489km and not 4,140km, that means that no allowance has been made by Network Rail for 1,300km of Scottish track. Network Rail could not answer the question and neither could the ORR, despite the fact that it has been in discussion with you for months and has had access to the *Official Report*, which Mr Middleton has not had the chance to read.

Moving on, if, as Mr Middleton said, we are more efficient in terms of operations and maintenance, why is it fair for the 31 per cent reduction to apply equally to Scotland and England?

Dougald Middleton: Some aspects of operation and maintenance are more efficient in Scotland but the ability to deliver increased efficiency in operations and maintenance depends on many different issues. A crucial issue is the amount of usage of the network, particularly at night. Compared with other parts of the UK, the network in Scotland is used relatively lightly, both in absolute terms and especially at night, when much of the heavy maintenance and renewals work is carried out. Because of that, Network Rail has the opportunity to continue to drive efficiencies from its operations. On that basis, the swings and roundabouts put Scotland back up to the GB average.

LEK worked for the ORR during the CP3 review on both benchmarking the GB network and examining comparisons throughout Europe and beyond, so it has considered the matter in quite a level of detail. Nothing in any of the work that we or LEK found suggests that it is unreasonable for Scotland to achieve the proposed efficiency gains, given the nature of the network in Scotland.

Kenneth Hogg: Scotland is uniquely placed within GB because it is the one area of Network Rail's operations in which a single operator runs over 95 per cent of passenger services. We believe that such an arrangement opens up scope for efficiencies from closer working between the operator—ScotRail—and Network Rail's Scottish operation. That is much more difficult in parts of England, where multiple operators make significant use of the same areas of track. Going forward, we will want to explore that issue with both ScotRail and Network Rail Scotland.

Fergus Ewing: I understand that point. In the scheme of things, the efficiency target may not be the most significant in terms of financial impact, but the point that I made still remains. If the argument is that the Scottish system performs better than the system in the rest of the UK and is more efficient for whatever reason—because a single large operator covers 95 per cent of passenger services, because the track is used less or for some other reason—it cannot be right that the same reduction should be applied to Scotland.

As you probably heard, the witnesses from the ORR were unable to express a view on whether Network Rail operates its rail infrastructure more efficiently in Scotland than south of the border, but you have expressed that view. In the negotiations that you said were completed this morning—before the committee meeting began, I presume—surely a differential reduction was sought on the basis of the simple argument that the Scottish network is already more efficient. Surely that was part of the negotiation. If it was not, why was it omitted?

Kenneth Hogg: The negotiation covered many aspects of the rail picture in Scotland, including assumptions—indeed, guesses—about Network Rail's costs in the future, beyond CP3. Are we at the peak of expenditure—it is currently at an historically high level—and will that continue or will it decline?

One of our key requests to the ORR is that it should implement separate price controls in Scotland to address precisely that point. In future, the ORR ought to be able to distinguish the cost of operations in Scotland from the equivalent cost in England and Wales so that, for any given amount of work, we are not simply price takers for a GB average cost. The ORR agrees that that is a key issue, which it has proposed as an option in one of its current consultation papers. In our response to that consultation, we argued strongly for a separate price control.

The Convener: Is the Executive confident that the ORR will put mechanisms in place to identify whether the rail network in Scotland achieves additional savings compared to other parts of the UK? Will such savings give the Executive the opportunity either to make that expenditure available in other projects or to reallocate the resources to other Network Rail projects?

Kenneth Hogg: Clearly, I cannot pre-empt the ORR's final decision but, yes, the Executive is confident that changes will be made with the ORR's blessing in order to make the settlement work in practice. The ORR was involved in the discussions on the rail review from the very start, including all the discussions on the Scottish outcome. For a long time now, it has been clear that a much higher level of transparency on the costs of Network Rail's activity in Scotland is needed to make the system work in practice. Such transparency may be addressed through, for example, the regulatory accounting guidelines and the cost disaggregation work that the ORR is now taking forward. In fairness, the ORR has consulted and is consulting on aspects of those issues and it has explicitly recognised the need for that direction of travel. I think that the ORR has officially or formally recognised the direction of travel, but it has still to conclude that and to implement the new procedures.

Fergus Ewing: Mr Hogg, I believe that you used the word "extreme" with regard to equated track miles. Why is that such an extreme method?

Kenneth Hogg: No. I think that I said that track kilometres were at one of the extremes of the ranges in play. At one end of the spectrum, taking the track kilometres figure as a proportion of the GB total would give us a figure of more than 13 per cent. At the other end of the spectrum, using fixed access charges would give us 6.8 per cent. The ORR has mentioned the equated track kilometres methodology, but has not yet converted that into a figure. As a result, I cannot give the committee a figure for that specific methodology; all I can say is that there are several figures in play.

Fergus Ewing: The ORR informed us that it had submitted material to Ernst & Young that set out a number of different criteria, one of which was equated track miles. It might take the view that it is really for Ernst & Young to come up with the figures.

I want to raise another, slightly different point, which emerged either in your opening remarks or in a response to a previous question, Mr Hogg. When Mr Mundell asked you about the criteria that were employed, you said that there were elements of agreement among the players. However, I want to be absolutely clear on this point. From the evidence that we have heard today, the ORR and Network Rail were not aware of the details of the deal or the criteria that would be used. Although they had seen the report from Mr Middleton's company, they did not know the tenor of the negotiations. Have the criteria that have been applied, and that have been described in the paper and by you, been agreed purely between the two Governments?

Kenneth Hogg: Again, it is important to distinguish between the different elements. It is true to say that the discussion about the figure that should transfer from the DFT to us has been bilateral between the Scottish Executive and the

DFT. That internal Government issue centres on who gives whom how much money to fund the outcome. However, that discussion has been based 100 per cent on figures that were previously discussed and agreed with the other parties involved, including Network Rail and the ORR. The RAB is the only element on which there is any dispute or variety of views. Network Rail has more than signed off this matter; it has given us the figures for all the elements in the £302 million total. Moreover, it has agreed with the ORR the methodologies to be used on the few occasions when it has not been possible to identify activity that is taking place in Scotland. The RAB is the only element for which a variety of methodologies is still in play.

Dougald Middleton: All the parties involved exchanged a huge amount of information. It is correct to say that the ORR suggested the equated track miles methodology, but it did not take the matter any further by explaining the basis of that calculation.

Fergus Ewing: Did you pursue the matter?

Dougald Middleton: Yes.

Fergus Ewing: And what happened?

Dougald Middleton: It was just one of those issues that got timed out. Everyone's feel is that the figure will come out at around the 10 per cent mark. Returning to Mr Mundell's point, I think that the core range that people are thinking about is between 9.5 and 10.5 per cent.

The Convener: I would like you to draw to a close, Fergus, because I am aware that some of our colleagues want to get home. After all, they will need to get back in for tomorrow morning's meeting. Perhaps we can pursue some of these issues a little bit further then. Do you have any other crucial questions?

Fergus Ewing: I have several other questions, convener. However, I respect the fact that colleagues have to get home, so I will just stop there. We will simply have to make do as best we can. I have to say that, although my previous question was very clear, Mr Hogg has not really answered it.

21:30

Bruce Crawford: The witnesses might not be so worried about the RAB, which is effectively a bookkeeping mechanism. However, they might be more worried about the departmental expenditure limit that will have to support it. If I understand the matter correctly, the £302 million that will roughly support the RAB is needs based and determined by the ORR. Am I right so far?

Kenneth Hogg: No. The £302 million is not 100 per cent for the RAB. The RAB element is one proportion of the total, which is £302 million.

Bruce Crawford: Okay. Is it correct to say that the largest chunk of that amount is for the network's future on-going expenditure needs?

Kenneth Hogg: Yes.

Bruce Crawford: And that amount has been determined by the ORR from figures that Network Rail has supplied.

Kenneth Hogg: Yes, the costs have been determined by the ORR in the CP3 settlement and have been verified by the regulator and Network Rail.

Bruce Crawford: But there must be a starting point from which Network Rail is able to make a judgment about how much needs to be spent in future years.

Kenneth Hogg: Yes.

Bruce Crawford: If so, we are relying a great deal on Network Rail getting that matter right. I wonder whether there has been much of an audit of the company's estimates to ensure that the information is robust. We might not care about the scale of the RAB, but the DEL figure will matter a lot as the years go on and we return to a Barnett formula increase.

Dougald Middleton: The detailed analysis of Network Rail's figures and the build-up of costs at the GB level was completed as part of the CP3 review, which took between six and nine months to complete. In that iteration process, Network Rail built up costs that the ORR and various consultants analysed, often on a joint basis in order to get away from the confrontational approach that had characterised previous reviews. Over that six to nine-month period, there was increasing confidence in the robustness of those figures. As I indicated in a previous response, the ORR felt even then that it was necessary to build a number of what might be called equity buffers into the CP3 settlement to deal with the risks that Network Rail would face over the remainder of the period and to cost those up.

Bruce Crawford: Was there any comparison of future costs with historic spend? Do you have any figures for historic spend from 1999 onwards? If so, how robust are they and can we see them?

Dougald Middleton: We looked back two or three years to find out Network Rail's historic spend and then looked forward for the remainder of the control period. As the ORR indicated earlier, the CP3 settlement saw a significant increase in Network Rail's allowed expenditure across all its cost categories.

Bruce Crawford: I can see why you would do that and why you would use the control period in that way. After all, you have to stop somewhere. However, this settlement means that ministers will have to look after the asset for a considerable time and I am concerned that we do not know what the costs further out will be. I suppose that the only way of getting any handle on the matter would be to consider some of the historic costs.

Earlier, Network Rail provided us with a figure, but said that we should treat it with some caution. It said that opex and maintenance and renewals costs came to something like £298 million. If we add in the CP4 figure of £27 million for servicing the extra debt, we get a figure of £325 million for 2003-04. The apparent blip in that financial year means that the figure is not going up all the time.

Dougald Middleton: You have to be careful with such analysis, because we have to treat revenue as revenue expenditure and capital as capital expenditure. Those elements are funded differently. The funding was certainly different between the CP2 and the CP3 settlements. Much of the CP3 expenditure does not appear explicitly in our financial analysis because it is capex, which is funded not through the settlement that we are discussing today but through the RAB. It is effectively put on Network Rail's balance sheet and financed over a 30-year period. As a result, it is difficult to make the comparisons that you have made.

Bruce Crawford: It is certainly difficult for us to make a like-for-like comparison, but I assume that you and Scottish Executive officials attempted to do so for the past two or three years of the spending period up until this year.

Dougald Middleton: As I said, our diligence has looked backwards and forwards.

Bruce Crawford: Could you provide us with the historic spend figures for the past three years before tomorrow? I do not want them tonight, because obviously you do not have them to hand. However, it would be useful to have them before tomorrow's meeting so that we can understand some of the historic issues. That said, perhaps you know off the top of your head whether the historic spend per year was more than £275 million.

Dougald Middleton: I think so—actually, let me take that back. I am not sure about that. My concern is that the figures in the report might not be presented in a way that will allow you to do what you want to do. I understand the point that you are making and will try to get things sorted for tomorrow morning.

Kenneth Hogg: Dougald Middleton will correct me if I am wrong, but I believe that railway funding for train companies and Network Rail is at an all-time high. If you like, we are doing a deal at the peak of Network Rail expenditure. If we looked back more than two or three years at what Railtrack was spending, we would find that the figure would be much less.

Bruce Crawford: That is a good point. However, regardless of the year in question, the crucial issue is the comparison between UK and Scottish spend and the base figure that you settle on.

Kenneth Hogg: That is correct.

The Convener: As that brings us to the end of questions, I thank Kenneth Hogg and Dougald Middleton for coming along tonight to try to clarify some of the complicated issues around the financial settlement. I certainly look forward to seeing both of you tomorrow, when you will accompany the minister.

David Mundell: I want to raise one final point, convener. Obviously, we will not have the *Official Report* of this meeting for tomorrow, but that will put us at a significant disadvantage, because a number of important technical points will have to be made on the basis of hearsay. However, will you confirm that the *Official Report* will definitely be available for the debate on the Sewel motion before the full Parliament? Much detailed information has come forward and it is important that the *Official Report* is available for the parliamentary debate. Tomorrow we will simply have to rely on our memory of events.

The Convener: I certainly agree with you. However, I am not the manager of the official report and cannot give you an absolute guarantee on that matter. I will make representations through the clerks that we believe it essential for the *Official Report* of the meeting to be available to parliamentarians before next week's debate. I am pretty sure that, once those representations are made, sufficient resources will put in place to complete the work before the debate.

David Mundell: Thank you, convener.

The Convener: We will now move into private session.

21:39

Meeting continued in private until 21:40.

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