London St Pancras Highspeed International Growth Incentive Scheme

Consultation Summary and Response

16 October 2025

1. Background and Context

London St Pancras Highspeed launched a consultation on a new International Growth Incentive Scheme on 4 April 2025. We invited interested parties to consider and comment on the proposal, as an amendment to our Network Statement. Details of the consultation can be found here: https://stpancras-highspeed.com/wp-content/uploads/2025/04/London-St-Pancras-Highspeed-International-Growth-Incentive-Scheme.pdf. As described in paragraph 2 below, London St Pancras Highspeed carried out a further limited consultation on an aspect of the International Growth Incentive Scheme on 21 July 2025.

2. Summary of Responses

In response to the first consultation, we received 13 responses. Three from rail sector bodies and other rail infrastructure managers, five from existing or prospective rail operators, and six from other interested parties, including local government, civic society or miscellaneous interested parties.

After the initial response, we issued a specific update to operators in relation to only the Passenger Incentive aspect of the scheme to address concerns expressed by some operators around its functionality. Overall, the response to that update was positive, although some operators continued to express reservations about the objective and certain of the mechanics of the Passenger Incentive, and some operators took the opportunity through that further consultation to reiterate some of their observations about the wider scheme. We have not repeated points already made from the first consultation, but have reflected any comments we considered to be new, and have also set out our responses to them.

We have decided to make amendments to the International Growth Incentive Scheme in order to address certain observations made by consultees made across both consultations. But we have not made all amendments requested by consultees. We have explained in the attached Issues Register in paragraph 4 below both those changes we have made and why we have not made others. In addition, we have taken the opportunity to update the International Growth Incentive Scheme to reflect changes made to the Passenger Access Terms earlier in the year and achieve closer alignment with the language used in the Passenger Access Terms, as well as add further clarity where we believe it is helpful. The updated International Growth Incentive Scheme is attached to this Consultation Summary and Response document, together with a comparison against the version consulted on on 4 April 2025 showing the changes made.

3. Summary of Consultation Questions and Responses

We are a regulated entity and track access discounting is a regulated activity. Consequently, we proactively sought specific comment from the ORR on the International Growth Incentive Scheme. We have set out key aspects of the ORR's response in this paragraph 3.

ORR Response

The ORR's response to the International Growth Incentive Scheme are summarised here:

- ORR welcomes the initiative as a positive step to fostering growth and use of capacity.
- ORR is content the scheme meets the requirements for discounts as outlined in Schedule 3, paragraph 6 of the 2016 Railway Regulations, citing the key features including time-limited, non-discriminatory and applied to underutilised lines.[1] It was also noted that other infrastructure managers offer similar schemes.
- ORR notes that there was no impediment for its inclusion and updating of the London St Pancras Highspeed's Network Statement, highlighting the importance of transparency.
- ORR agrees with the approach of the International Growth Incentive Scheme for inclusion as contractual provisions within Framework Track Access Agreements (FTAAs), which the ORR subsequently approves. ORR equally agrees that the Passenger Incentive in the scheme should not be included in FTAAs, as it does not pertain to track access charges.
- ORR indicated its supervision of discounting would normally be restricted to reviewing any agreement before signature.
- ORR noted the scheme will be applied with transparent, objective and non-discriminatory criteria in line with the regulation and the Competition Act 1998 and encouraged consistent application to avoid market distortion.

Summary of other consultation responses

Otherwise, in the remainder of this paragraph 3, we have anonymised and summarised consultee responses to the questions we asked in the consultation. The initial consultation asked six questions. As Question 1 asked consultees to identify themselves, confirm their interest in the consultation, and provide their address and contact details, the responses to Question 1 have not been set out in this document.

Some consultees chose not to respond to all questions or responded in narrative form, rather than separately responding to each question. Accordingly, where appropriate, such responses have been categorised under the closest corresponding question. We have also synthesised consultee responses where they made sufficiently common observations.

[1] The Railways (Access, Management and Licensing of Railway Undertakings) Regulations 2016.

When we refer to a comment being made by an operator, we do not distinguish whether that is an existing or prospective operator.

Certain of those summaries contain the following image: ➲ #. Where this appears, it denotes the number assigned to the issue raised by that response in the Issues Register table in paragraph 4 below. Certain entries in that table in paragraph 4 themselves contain this image also to denote a cross reference to another related issue/response in the table.

Summary of responses to Consultation Questions

<u>Question Two</u> - To what extent do you believe the new incentive scheme will support a change in benefits for passengers and/or operators? Please provide as much evidence as you can to support your position.

- One operator supports the scheme but believes further work and consultation is needed. ➲ 1
- One operator believes the scheme will create "*huge benefits for both passengers and operators*", going on to detail those benefits as greater service frequency, new destinations and stops, improved rolling stock, more consumer choice and the benefits associated with greater competition such as innovation and better value.
- One operator believes the scheme is fair and likely to benefit existing as well as prospective operators.
- One rail sector body or infrastructure manager expresses interest in broadening of the scheme to cover domestic services. ➲ 9
- One operator indicates that it believes the scheme will reduce barriers to entry through lowering the costs of entry into the market.
- One operator highlights the environmental and socio-economic benefits through modal shift from road and air to rail and the close alignment of International Growth Incentive Scheme with public policy in the relevant territories.
- One operator affirms that the scheme is, "*a well-considered approach to incentivising international rail development*", citing the use of the baseline, targeting ramp-up, protection against cannibalisation, creating of joint marketing fund and respecting regulatory discounting principals of fairness and proportionality.
- One rail sector body or infrastructure manager is supportive as the scheme aims to encourage growth of international services and passenger usage on the HS1 network. They note the greater socio-economic and environmental benefits the scheme will help bring about, as well as the increase in passenger choice through encouraging new destinations. It was noted that the scheme is in line with HM Government's growth mission.
- One operator is supportive, stating the scheme will provide some financial incentive to drive growth.
- Two operators are equally supportive of the scheme, indicating that the incentive supported the ramp up of services and matched demand and revenue profile of new service launch.
- One operator believes the discounts should be extended to all track access charges, highlighting other costs are linear, e.g. maintenance. ➲ 23

- Two other interested parties are supportive of the scheme because they believe it is better targeted than London St Pancras Highspeed's previous discount scheme and more targeted to prospective operators to help their financial planning. They believe the scheme will address the lack of competition on the route for 30 years and the harm this has done. They note the underutilisation of the link and the substantial taxpayer investment in the construction of the line.
- One operator confirms the International Growth Incentive Scheme will play a crucial role in developing new cross-Channel services and increasing competition. They cite the high cost of market entry and challenges of developing profitable services in a complex market.
- One operator indicates the incentive scheme will drive benefit for passengers through enabling lower fares and increased choice and service frequency.
- One rail sector body or infrastructure manager thinks the scheme will benefit operators and passengers.
- One rail sector body or infrastructure manager is fully supportive of the scheme because it believes it would fulfil the role of developing the market for international services for prospective and existing operators, particularly during ramp-up period.
- One other interested party strongly welcomes the scheme, considering it, "*one of the most forward-looking schemes in Europe to date*". It considers it, "*well-crafted and thoughtfully designed*", particularly welcoming the three components of the New Services Incentive.
- One other interested party highlights research that indicates that increasing cross-channel traffic could lead to a £1bn boost to the UK economy.
- One other interested party cites multiple examples where track access discounts on other rail networks has led to increased usage and increased passenger benefit, including reduced fares.
- One other interested party believes the scheme is clear and targeted and will help reduce barriers to new operators on the route.
- Two other interested parties are highly supportive of the incentive to encourage intermediate services to Kent stations, as well as encouraging competition to make this a reality.
- Two other interested parties note and detail the extensive economic harm of the lack of Kent services and how the scheme will address this by encouraging new intermediate services.
- Several other interested parties cite extensive public support for the return of international rail services to Kent stations demonstrated through a petition signed by over 60,000 people and submitted a copy of the public interest case to central

government that details the environmental and socio-economic benefits of such services.

- One operator welcomes the Passenger Incentive component of the scheme as a "*truly novel way*" of incentivising additional customers through targeted marketing.
- One other interested party welcomes the Passenger Incentive component of the scheme and seeks assurance that marketing fund spend would match route and destination profile, notably for promotion of intermediate stations ➲ 41
- One other interested party is supportive of the scheme for helping short distance routes.
- One operator highlights the challenge of cashflow for new operators in the ramp-up period in part driven by London St Pancras Highspeed's charging schedule and urges consideration of more favourable payment terms under the incentive scheme ➲ 49

<u>Question Three</u> - To what extent do you believe these proposed changes will influence behaviour, either positively or negatively?

- One operator highlights that the scheme would improve the business case for new and existing services.
- One operator indicates the scheme would positively influence decision making for new entrants.
- One operator highlights that the scheme would encourage them to consider intermediate stops and network growth, bringing benefits to a broader range of passengers.
- One operator indicates that the scheme incentives them to develop a more modern and efficient fleet.
- One rail sector body or infrastructure manager notes that reducing costs will have a positive influence in attracting new operators to the network, as well as incentivising existing operators to change behaviour to qualify for the incentives.
- One other interested party describes the scheme as a, "*very positive step*", noting it will encourage competition and therefore the most likely route to achieve the organisation's objective to increasing services to the region where its interests lie.
- Two other interested parties note the harm of the present absence of incentives on existing service provision and service growth to the detriment of passengers and socio-economic benefits.
- Two other interested parties praise the make-up of the growth incentive components, noting that prospective operators are likely to be incentivised to stop at Kent destinations to achieve maximum incentives. It also notes the incentive the scheme provides to the incumbent, through increasing the financial attractivity of stopping at these stations.
- One other interested party highlights the driver of incentives for new destinations to address the capital start-up costs of creating new borders as new destinations.
- One rail sector body or infrastructure manager is supportive of the Passenger Incentive component of the scheme because it will encourage passenger growth.
- One other interested party describes the joint marketing fund as innovative and highly welcome, noting the lack of coordinated and visible promotion for cross-border rail services. They note that the European Commission's Eurobarometer survey where 22% of respondents find it difficult to change their travel habits in spite of three quarters of respondents considering environmental impact of their journey important.

<u>Question Four</u> - Are there any amendments you would like to suggest to the proposed changes?

- Two operators indicated that no amendments were required.
- One other interested party believes the scheme will help attract more business, increase competition and attract more clients, but highlights the effect of competition and draws parallels with new entrants in the bus sector. They also state that the market, rather than London St Pancras Highspeed, should be the determinant of service sustainability. ➲ 2
- One operator believes the scheme requires the disclosure of too much information which the operator perceives to be commercially sensitive. ➲ 5
- One operator indicates that they do not believe there is sufficient assurance of how commercially confidential information will be handled and protected. ➲ 6
- One other interested party suggests the publishing of annual reports detailing: (i) the usage of each component to help assess success and effectiveness and (ii) the net revenue impact for London St Pancras Highspeed of the incentive. ➲ 7 and 8
- One rail sector body or infrastructure manager proposes extending the incentive to domestic operators. ➲ 9
- Two other interested parties highlight the development of night trains in other markets and suggests a specific discount for such services. ➲ 10
- One operator suggests that new intermediate discounts should be available for mono directional services, not just bidirectional services. ➲ 11
- One other interested party suggests London St Pancras Highspeed consider a permanent reduction in track access charge to further incentivise growth. ➲ 14
- One operator believes the scheme should be available more than once to each operator within the scheme period. ➲ 16
- One operator believes the scheme should be open-ended highlighting the potential perceived risk of discrimination between incumbent and prospective operators in being able to benefit from the scheme, as the latter must wait until they have constructed rolling stock, thus shortening the period of International Growth Incentive Scheme eligibility. ➲ 17
- One operator suggests a longer notice period for scheme withdrawal, than the three months stated in the scheme, to better match operator planning cycles. ➲ 19
- One operator notes the risk of significant prolonged market disruptions and encourages the inclusion of a provision to pause activated growth incentive periods and roll them over. ➲ 20
- One operator believes elements of the scheme do not respect "*a level playing field*" citing in particular the creation of the baseline. ➲ 22

- One operator believes there should be no cap on cumulative incentives, highlighting this may undermine the incentive objectives. ➲ 24
- Two other interested parties express concerns that an operator may deliberately or inadvertently prevent another operator from benefiting from the intermediate station component of the International Growth Incentive Scheme through serving an intermediate station for a short period before the scheme period ➲ 27
- One other interested party proposed removing the exclusion of new destinations within the M25. ➲ 29
- One other interested party suggests multiple amendments pertaining to the calibration, infrastructure manager incentive alignment and wording of the incentive. ➲ 30
- One other interested party suggests incentivising high passenger volume trains to encourage development of low-cost offers making cross-Channel travel more affordable. ➲ 33
- Two other interested parties highlight a concern that operators face no penalty for not running services as per FTAA or otherwise operating a minimum service level. ➲ 34
- One operator notes there is no disincentive or claw back should a displaced service be subsequently re-introduced, thus reducing the risk of gaming of the system. ➲ 35
- One operator notes the 12 month window is a prolonged period of unnecessary uncertainty as to whether an incentive adjustment would be made. ➲ 37
- One operator highlights concern about the lack of definition of displaced services under the incentive adjustment. ➲ 38
- One operator highlights a potential risk of regulatory burden and queries why reporting for the Passenger Incentive component of the scheme is required monthly when the incentive is only rebated annually ➲ 42
- One operator requests clear and simple rules to govern how the joint marketing funding can be spent. ➲ 43
- One operator appears unable to contemplate a cooperative approach on administration of a joint marketing fund and highlights the need for competition considerations to be taken into account in its administration. They propose a more rigid and formulaic approach to its distribution. ➲ 44

<u>Question Five</u> - Are there any ways we could make the proposed amendments clearer or easier to comply with?

- One operator indicates the proposed changes were clearly laid out.
- One operator highlights the potential challenges for an operator introducing a new service under the scheme to predict whether another operator will withdraw services and queries how this assessment will be used in eligibility criteria for the Incentive Adjustment. ➲ 3
- One infrastructure manager indicated that route development was sequential and suggested the separation of new destination component of the growth incentive from the new service and new rolling stock components and that they should be made available for each new service launch ➲ 15
- One operator suggests there may be a loophole that an operator halts services to a new or intermediate destination shortly before the incentive scheme period begins to obtain eligibility for the scheme. ➲ 25
- One operator highlights that there is no provision for new or intermediate destinations to become eligible again in event of it being abandoned by one operator and another decides to pick it up. ➲ 26
- One operator indicated that new intermediate stations definition in Chapter 5 could be clearer to avoid confusion as to whether it required domestic cabotage to qualify, i.e the aligning of passengers at Ashford as well as the pick up. ➲ 28
- One operator highlights the risk of subjectivity in interpreting whether rolling stock is state of the art and accordingly suggests the removal of this term. ➲ 32
- One operator expresses concern about the lack of information required for an operator that has withdrawn a service to invoke the Incentive Adjustment. ➲ 39

Question Six - Are there any other comments you would like London St. Pancras Highspeed to take into account from this amendment to the Network Statement?

- One rail sector body or infrastructure manager was fully supportive of growth in international and domestic passengers services.
- Three operators had no further comments on the consultation.
- One operator believes the scheme must have greater regard for competition law and demonstrate this. ➲ 4
- One operator seeks clarity on the rationale for requiring different components of the International Growth Incentive Scheme to be used at different times. ➲ 18
- One operator queries why an operator would be eligible for discounting even if the total number of paths on London St Pancras Highspeed is decreasing. ➲ 21
- One other interested party proposed a change to how border controls are carried out suggesting they should take place on board trains. ➲ 31
- One other interested party submitted detailed information about adjacent infrastructure markets and tangential markets unrelated to highspeed international passenger rail services that were out of scope of the consultation.
- One operator highlighted the technical barriers that act as a barrier to entry that need addressing, specifically citing the need for ETCS and interoperability across relevant infrastructures. ➲ 50

4. Issue Register

➲ Number	Issue Raised	Consultee Type	London St Pancras Highspeed Response
REQUIREMENT FOR FURTHER CONSULTATION			
1	There is a need for further consultation of the International Growth Incentive Scheme to create a workable scheme.	Operator	We consider the International Growth Incentive Scheme to be workable and we are not proposing any substantive change to the International Growth Incentive Scheme as a result of this consultation. We therefore do not consider that further consultation will be required. Additionally, we note the ORR's favourable and positive consultation response.
SCHEME APPLICATION PROCESS, TESTS LONDON ST PANCRAS HIGHSPEED SHOULD APPLY TO QUALIFY FOR SCHEME, AND INFORMATION DISCLOSURE			
2	The question of sustainability of services should not be a matter for London St Pancras Highspeed to decide in the application process for the International Growth Incentive Scheme. Cancellation of a new service after its discounting would be proof that the service was not sustainable, and ultimately, service sustainability should be a matter for TOCs alone.	Other interested party	For the most part, we agree that sustainability of services is a matter for the TOCs. We believe the costs required to set up new routes would mean TOCs would not readily cancel services they have sought to establish, including once a discount is no longer available. However, regulations require that any incentive we offer is time-bound, and so does not constitute a form of permanent subsidy. Therefore, it is an issue of public policy that we understand how any discount we offer contributes to or is even determinative of the sustainability of a new service and what bearing its introduction might have on others. We therefore have a duty to ascertain this when a TOC makes an application under the scheme. The discounts in the scheme are conceived to allow a period of time until services are sustainable, at which point no discounts should be necessary. But the variety of possible new services that might be introduced, and the markets they serve, means we must establish this on a case-by-case basis.
3	It is inappropriate to require International Growth Incentive Scheme applicants to predict the impact of new services on	Operator	In progressing applications for new access rights, we are expected under the ORR's '*Criteria and Procedures for the approval of framework agreements on the HS1 network*' to have considered the impact of the associated new services on other TOCs, and to have discussed those potential impacts with applicants. We would anticipate

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	others and Incentive Adjustment deals with question of displacement anyway. Clarity is required on how London St Pancras Highspeed will assess such impacts in the context of eligibility for scheme.		such applications to be concurrent with applications for discounting under the International Growth Incentive Scheme and the scheme is simply aligning those discount applications and conversations with those anticipated by the Criteria and Procedures, albeit we have not chosen to repeat them in the scheme itself. In assessing the potential impact on others, we do not expect an applicant for the scheme to predict whether the introduction of its intended services would cause another TOC to withdraw its services. But we do expect, as the ORR does, that applicants will have a view of the likely impact. We consider it reasonable for such a view to include an assessment of the likelihood of withdrawal of rival services, or actions short of withdrawal, and we recognise that such an assessment may legitimately anticipate no or minimal impact. We note that the ORR must approve any application for access to our infrastructure, including an application we have agreed to progress on the terms of offering discounts under the scheme, and we expect that the ORR will make its own determination as to the potential impact on other TOCs of approving such an application. Should we determine that a TOC is not eligible to receive discounts under the scheme, whether because of the perceived impacts of the introduction of its proposed services on other TOCs or otherwise (for example, where we consider the proposed services give rise to congestion), this is appealable to the ORR under the regulations. We do not consider that we would be meeting our regulatory requirements if we simply assessed the question of impact on other's services after the fact as part of the Incentive Adjustment mechanism. Separately, we note other comparable access discount schemes which also require TOCs to provide details as to anticipated abstraction when they apply for discounts under those schemes. We are comfortable therefore with the level of information sought under the scheme and note that the ORR has raised no objections to the process or information requirements set out in the scheme.

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4	The existing discount policy, at Test 7, specifically tests for adverse competition impacts. This should be included by design in any proposed scheme. The International Growth Incentive Scheme should contain clear statements and structures to ensure ongoing compliance with all relevant competition laws.	Operator	Test 7 of the discount policy in the existing Network Statement asserted that we would not award a discount if it was considered likely to infringe applicable competition law. It anticipated us assessing any new discount scheme we might be discussing with a TOC or TOCs to determine whether any TOC would be charged relatively more or less over shared markets. We consider that expressing this test was necessary in the context of a policy which had no active discount scheme attached to it. Instead of a published scheme as is the case with the International Growth Incentive Scheme, the policy anticipated negotiations between us and any TOC that was seeking a discount prior to and during the development of such a scheme. The policy, and in particular Test 7, sought to establish a key limitation for those negotiations. Once formally published, the International Growth Incentive Scheme is intended to become an active discount scheme, no longer subject to consultation, negotiation or discussion, unless subsequently formally varied to a material degree, in which case due consultation would follow. It is self-evident we consider that the scheme does not infringe applicable competition law, and so there is no need to make assertions to this end within it, include a prospective test of competition law compliance, or assess whether TOCs will be charged relatively more or less, since the scheme already describes, in our view, transparent, objective and non-discriminatory principles for how discounts will be calculated. We note that the ORR has stated in its consultation response, that "*We understand that eligibility for the scheme will be governed by transparent, objective and non-discriminatory criteria, in line with the Competition Act 1998 and the Rail Regulations.*" Nonetheless, the essence of Test 7 – to consider whether there are any adverse competition impacts from discounting new services – has not been lost. We refer to our response in ➲ 3 above regarding the scheme's alignment with the access approval processes under the ORR's '*Criteria and Procedures for the approval of framework agreements on the HS1 network*' and the specific requirement to determine the impact of the introduction of new services on existing ones, both initially by ourselves, the relevant TOC and affected ones, and ultimately the ORR.

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			In addition, unlike the existing discount policy, the scheme expressly provides for the assessment of competitive impact during actual operation through the Incentive Adjustment.
5	The International Growth Incentive Scheme requires the disclosure of potential commercially sensitive information which is disproportionate to achieving the aim of the scheme (for example, the requirement to provide a business case).	Operator	We note that the access application information requirements set out in the existing Network Statement (section 4.4.4 thereof), which are cross-referenced and supplemented in the current discount policy attached to it (paragraphs 3 and 4.5 thereof), are largely the same as the information requirements contained in paragraph 3.2 of the International Growth Incentive Scheme. Paragraph 3.2 has sought to consolidate the information from these existing references. In particular, we note paragraph 3.19 of the existing discount policy which requires applicants for a discount thereunder to provide the "*business case for the rail service* [*to be discounted*]", among other things, for the purpose of considering commercial viability. We considered the information requirements under comparable discount schemes offered by other infrastructure managers in developing the scheme. We are confident that the information we have sought, both for the purpose of applying for the scheme, and its functionality during its operative period (for example, the information requirements around the Incentive Adjustment and the Passenger Incentive), is not inconsistent with those other schemes and is proportionate to the scheme's aim.
6	The International Growth Incentive Scheme does not provide assurance of how commercially sensitive information will be handled.	Operator	We note that TOCs already provide commercially sensitive information to us in our capacity as an Infrastructure Manager. We also highlight our regulatory obligation to respect confidential information provided to us by TOCs, as outlined in section 14 (13) of The Railways (Access, Management and Licensing of Railway Undertakings) Regulations 2016, which we fully respect and adhere to. But we are cognisant of the increased informational challenges of moving to a multi-operator railway. We are currently developing data management and informational security policies for our employees which reflect this new environment, in order to ensure the security of sensitive competitive information which may be obtained via

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			the scheme, or through other business means. We will appraise TOCs of the non-confidential aspects of these policies in due course.
7	Annual reports should be published after the International Growth Incentive Scheme goes live.	Other interested party	The terms of any successful International Growth Incentive Scheme application will be incorporated in a TOC's Framework Track Access Agreement (FTAA), which is published by the ORR and freely available here: https://www.orr.gov.uk/monitoring-regulation/rail/networks/hs1/access-hs1/hs1-applications-decisions-and-consolidated-agreements We believe the terms of the scheme are transparent, and we publish extensive financial information on our website in various publications, notably in the investors' section. We intend to publish information pertaining to the scheme in accordance with our statutory, and fiduciary duties, subject to ordinary commercial sensitivity considerations. We do not currently have plans to publish scheme-specific annual reports.
8	London St Pancras Highspeed's net revenue from track access charges (after application of discounts under International Growth Incentive Scheme) should be published.	Other interested party	We believe the terms of the International Growth Incentive Scheme are transparent, and we publish extensive financial information on our website in various publications, notably in the investors' section. We intend to publish information pertaining to the scheme in accordance with our statutory, and fiduciary duties, subject to ordinary commercial sensitivity considerations.
WHICH SERVICES SHOULD BE INCENTIVISED UNDER THE INTERNATIONAL GROWTH INCENTIVE SCHEME			
9	Domestic services should benefit from a similar scheme to the International Growth Incentive Scheme.	Railway body or Infrastructure Manager	We note and welcome the interest in a potential domestic growth incentive scheme. Domestic services are out of scope of this scheme and consultation. We nevertheless keep all markets under review and welcome dialogue with the relevant stakeholders to better understand how we can support their growth.

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10	The International Growth Incentive Scheme should extend to night trains.	Other interested party	Night train services are out of scope of this consultation. Nevertheless, the International Growth Incentive Scheme does not preclude the future publication of additional schemes, addressing different markets including nights trains. We will keep this market segment under review and welcome discussions with any TOC interested in developing night trains to understand how we can best support them and their business case.
11	The International Growth Incentive Scheme should incentivise on a mono-directional basis as this would recognise the challenges with establishing new international routes. Making discounts conditional on operating in both directions may operate against certain route development plans where additional work to facilitate direct services is necessary.	Operator	We recognise historically how new routes have developed incrementally. However, one of the objectives of the International Growth Incentive Scheme is to deliver accelerated growth, and directly incentivise TOC investment in widening the HS1 network, ultimately bringing greater benefits to passengers. In this specific context, the incentivisation of return services necessitates the investment in new international rail borders. We have made these requirements more explicit in the updated scheme through the new definition of Scheme Station, and the updated New Destination and New Intermediate Station definitions in paragraphs 5.9 and 5.10, and paragraph 5.14 and 5.15. In keeping with the sentiment to drive the widening of the HS1 network, we have also made it a requirement in order for a station to qualify as a New Destination or New Intermediate Station, and so the relevant TOC to qualify for a discount for calling there, that where that TOC has a management function in relation to that station, it ensures access to that station is available on a fair and non-discriminatory basis to other TOCs.
12	Dedicated, indirect services should be eligible for discounts under the International Growth Incentive Scheme. Significant endeavours by a TOC to develop dedicated connecting services between rail services for offer to passengers should be included in the scheme, responding to the scheme's growth principles.	Operator	Under regulation, discounting is a discretionary activity. In devising the International Growth Incentive Scheme, we have carefully considered the needs of the market and anticipated TOC cost bases and calibrated the scheme accordingly, balancing the case for and scale of intervention in order to comply with both the 2016 Regulations and competition law.
13	To address the following flaws in the scheme – no incentivisation of existing services, automatic reward of new servicers, and	Operator	Under regulation, discounting is a discretionary activity. In devising the International Growth Incentive Scheme, we have carefully considered the needs of the market and

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	joint marketing of new services – volume incentives could instead be based on a pro-rata allocation of overall volume growth which could be weighted towards new operator services, which could be combined with an element which offers particular incentives for introducing new services at under-utilised times of the week or seasons. This mirrors well understood approaches to incentivising transport growth. It incentivises route use at times when there is spare capacity, which tend to correlate to times when running a service is less profitable. It may also help retain services at such times that may otherwise be most at risk of being cancelled.		anticipated TOC cost bases, and calibrated the scheme accordingly, balancing the case for and scale of intervention in order to comply with both regulations and competition law.
DURATION AND APPLICABILITY OF INTERNATIONAL GROWTH INCENTIVE SCHEME			
14	London St Pancras Highspeed should consider a permanent reduction of track access charges.	Other interested party	We have worked with TOCs and the ORR to introduce a global reduction in track access charges for operation, maintenance and renewal costs at the last price control point (April 2025) and will be monitoring its impact over the course of the current control period. The International Growth Incentive Scheme offers discounts against the Investment Recovery Charge we levy and such discounts must be time bound in accordance with regulations.
15	As many new service opportunities are available, and TOCs will focus sequentially on successful delivery, a new service 3-year discount period should apply under the International Growth Incentive Scheme for each new service launch.	Railway body or Infrastructure Manager	We do not intend to create a 3-year discount period for each potential new service. It will remain the case in the scheme that each TOC can qualify for one 3-year Incentive Term. The scheme has been designed to offer TOCs the maximum opportunity to deliver growth, while incentivising the delivery of that growth as soon as practicable. In this instance, we believe the scheme has been correctly calibrated to achieve this equilibrium. We will nevertheless keep the scheme under review to ensure it is achieving its goals.

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			See also ➲ 16 below which covers similar territory. See also ➲ 20 below and a new paragraph 4.4 in the scheme where, in response to consultee arguments, we have now provided that Incentive Terms may be extended as a result of prolonged adverse market disruption.
16	Incentives should be available to TOCs more than once within Scheme Period. Each incentive should have its own 3 year time window.	Operator	Under regulation, discounting is a discretionary activity. In devising this scheme, we have carefully considered the needs of the market and anticipated TOC cost bases, and calibrated the scheme accordingly, balancing the case for and scale of intervention in order to comply with both regulations and competition law. Multiple and separable incentive availability within the 10-year period of the scheme runs counter to the focused way in which the scheme is intended to work to deliver accelerated growth, militating against (and so jeopardising) the ratcheting mechanic which allows a single Train Path to qualify for multiple discounts. Moreover, in our view, a regime that operated in the suggested way would potentially be inconsistent with the regulatory requirements for discounts to be time limited. Regarding the suggestion that each incentive should have its own incentive period, see our response to ➲ 15 above. The scheme has been designed to offer TOCs the maximum opportunity to deliver growth, while incentivising the delivery of that growth as soon as practicable. In this instance, we believe the scheme has been correctly calibrated to achieve this equilibrium. We will nevertheless keep the scheme under review to ensure it is achieving its goals.
17	The limited duration of the International Growth Incentive Scheme raises issues of fairness for potential new entrants, owing to requirement for new entrants to procure new rolling stock.	Operator	Under regulation, discounting is a discretionary activity. In exercising this discretion, we have sought to create a non-discriminatory scheme, offering all TOCs within the 10-year Scheme Period, the same opportunity to benefit from the available discounts. Each TOC is afforded the same Incentive Term to realise discounts, with the timing of when to start that term chosen by them. We expect all TOCs to choose to start their Incentive Term when most favourable to them. Given the scheme condition for any TOC to deliver growth in order to receive discounts, and the specific incentive around the operation of new rolling stock, we anticipate all TOCs will seek to time their Incentive Terms with the arrival of new rolling

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			stock, but recognise that this is their choice. We note however the recent public pronouncements of all TOCs intending to operate international passenger services on HS1 of their plans to procure new rolling stock and that they each plan to do so over similar timeframes. We believe that our approach in this context does not give rise to any issues of fairness. We also note that paragraph 4.3 of the scheme allows London St Pancras Highspeed to extend the scheme, again at its discretion, provided it does so in a non-discriminatory manner. See also ➲·20 below (and new paragraph 4.4 of the scheme) where in response to consultee observations, we have allowed for the possible extension of the scheme, and affected Incentive Terms, in the context of a material event which prevents TOCs from maximising their possible discounts, further ensuring fairness for all TOCs in unforeseen circumstances.
18	The International Growth Incentive Scheme appears to require a fleet application at one time, and a new destination one at another time. There appears that there has to be a choice between the two. It is unclear why.	Operator	There is no requirement in the International Growth Incentive Scheme to apply for different components of the scheme at different times. A TOC applies once to qualify for all potential discounts available under the scheme. Once qualified for the scheme, a TOC can choose to qualify for different discounts at different times, but the scheme has been designed to allow TOCs the opportunity to maximise the benefits of the scheme by qualifying for multiple discounts at the same time. We refer to paragraph 5.2 of the scheme. Whether a TOC does qualify for multiple discounts at the same time depends on its chosen service offering and fleet deployment strategy. For example, once a TOC has applied and qualified for the scheme, and the amended FTAA reflecting the scheme's terms has received regulatory approval, those terms will function to apply the necessary discounts depending on what the TOC ultimately seeks to timetable and operate during its Incentive Term. So, if that TOC's FTAA contains the necessary access rights to operate to a New Destination, it has also procured new rolling stock, and it is delivering growth above its baseline, it will pay discounted access charges for the necessary paths on HS1. Subject to the Maximum Incentive, that TOC will achieve

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			discounts for the above baseline growth, as well as the operation of that new rolling stock to that new destination. The 3-year period of availability for scheme discounts starts when a TOC first qualifies for any of them. It is therefore for each TOC to consider when it will be best placed to start qualifying for the discounts under the scheme in order to maximise savings.
19	The International Growth Incentive Scheme requires a longer withdrawal notice period since TOCs will place reliance on its availability.	Operator	We believe the notice period for possible withdrawal in the International Growth Incentive Scheme is appropriate, reflective of its voluntary nature, but also of our attempt to strike a balance between our interests and those of the TOCs who might benefit from it. We note that other comparable discount schemes can be withdrawn without notice.
20	With the COVID pandemic in mind, there should be provision within the International Growth Incentive Scheme to pause activated Incentive Terms in the event of prolonged adverse market disruption.	Operator	We acknowledge the risk of prolonged adverse market disruption (of the kind experienced during the pandemic) preventing operators from benefiting fully from the scheme. We note our existing discretionary ability to extend the Scheme Period under paragraph 4, however, we recognise this may not offer sufficient protection for TOCs in the circumstances envisaged where their Incentive Terms have already been activated. Accordingly, we have amended the scheme at the new paragraph 4.4 to provide that if we reasonably determine a period of prolonged adverse market disruption which materially affects the operations of all TOCs on HS1, a significant proportion of them, a particular route, a particular Scheme Station, or St Pancras International, then the Incentive Term of any TOC which has already commenced will remain operative during the period of disruption, but the Incentive Term '3-year clock' will not begin to tick again until that period of disruption has ended. In this way, it is hoped those TOCs will continue to be able to earn discounts during the period of disruption to the extent they are able, without those Incentive Terms effectively being truncated. And for both those TOCs, and other TOCs whose Incentive Terms have not commenced, the Scheme Period will be extended to try to ensure that TOCs benefit from a 3-year Incentive Term, subject in each case to the Scheme Period being no longer than our current concession to operate HS1.

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			We consider this approach to be preferable to simply pausing the scheme, the effect of which would be that no TOC with an active Incentive Term will receive any discounts during an adversely impacted revenue period.
FUNCTIONALITY OF THE BASELINES			
21	The scheme appears to be predicated on a view that new operators will deliver net growth and not thrive on abstraction. It would be naïve (or possibly disingenuous) not to acknowledge that one potential effect is a contraction of some existing services in response to the new market dynamics. The International Growth Incentive Scheme appears to discount services even where the overall level of services has decreased.	Operator	The scheme is intended to incentivise growth in international passenger services using HS1 and so increase its likelihood. It is a condition of any discounting under the New Services Incentive, that TOCs must first be delivering growth. We acknowledge that it is theoretically possible that discounts will be available under the International Growth Incentive Scheme where less services are operating on HS1 overall than before the scheme commenced. However, it is not in our own interests for this kind of outcome to occur, and our own assessment from what we understand publicly from TOC growth plans and known market behaviour following the introduction of rail competition, is that it this is a highly unlikely outcome. Abstraction cannot of course be ruled out. But we have taken steps in the scheme to discourage the impact of new services on existing ones, first through the initial assessment of such impact at the application stage (see our response to ➲ 3 above in relation to the determination of new service impact), and then through the Incentive Adjustment.
22	The structuring of the New Services Annual Baseline, the New Services Quarterly Baseline and the Passenger Baseline do not respect the principle of a level playing field. A new TOC will be comparing against a baseline of zero, whereas an existing TOC will be comparing against an existing baseline of up to three years.	Operator	We reject the characterisation of the baselines not respecting the principle of a level playing field. The International Growth Incentive Scheme is intended to incentivise growth in international passenger services and passenger numbers. For this reason the scheme (through the New Services Annual Baseline, the New Services Quarterly Baseline, and the Passenger Baseline) targets for incentivisation only those services which deliver growth and only those passengers which constitute growth. Incentivising services which do not deliver growth or the carrying of passengers which do not represent growth would be inconsistent with that objective.

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			Given the overall duration of the scheme, and the flexibility available within that period to TOCs to choose when they wish to benefit from the available discounts, we consider all TOCs have an equal opportunity – a level playing field in the language of the comment – to deliver new growth services and carry new passengers. We note that the ORR has observed in its consultation response that, it is "*content that the scheme as proposed meets the requirements for discounts in schedule 3, paragraph 6 of the Rail Regulations*.", where, among other things, it is required that discounts are applied in a non-discriminatory manner.
THE SCALE OF AVAILABLE INCENTIVES			
23	Discounts under the International Growth Incentive Scheme are only applied to a maximum of 50% of the Investment Recovery Charge in the first year which relates to the capital costs of London St Pancras Highspeed. The entire capital cost element of London St Pancras Highspeed's access charges should be waived for new entrants and the scheme applied to the remaining charges.	Operator	The Investment Recovery Charge (IRC) allows the original capital expenditure required to build HS1 to be recovered over time. The level of IRC we are entitled to levy was set when the concession was sold and important to the valuation of the concession. It is necessary for us to levy IRC in order for us to recover our investment and we cannot waive the full amount of IRC over the prolonged period envisaged by the scheme as a result. Nor could we charge different TOCs different amounts of IRC for the same access since this would be discriminatory under regulations. The largest remaining part of the charges, the Operations, Maintenance and Renewals Charge, is regulated through the price control process overseen by the ORR. Discounting OMRC would lead to an under recovery of charges the ORR has approved in our regulatory settlement against the associated anticipated costs.
24	There should be no cap on the % discount TOCs are able to receive.	Operator	Under regulation, discounting is a discretionary activity. In devising this scheme we have carefully considered the needs of the market and anticipated TOC cost bases, with our need to recover our investment in the infrastructure (see response to ➲ 23 above), and calibrated the scheme accordingly, balancing the case for and scale of intervention in order to comply with both the 2016 Regulations and competition law.
THE NEW DESTINATION INCENTIVE			
25	There is a potential loophole, though remote, of stopping serving stations before the International Growth Incentive Scheme is	Operator	We consider the opportunity to claim New Destination Incentive discounts in relation to stations that are currently served from HS1 today to be remote. Given the

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	formally adopted, the effect of which would mean those stations qualifying as New Destinations or New Intermediate Stations, contrary to the scheme's intent to discount genuinely new destinations and intermediate stations.		destinations in question, and the very limited time before we expect the scheme will be published in final form (which will trigger the start of the Scheme Period) we do not consider there is a realistic opportunity to artificially create a New Destination or New Intermediate Station in the meantime.
26	There is no provision in the International Growth Incentive Scheme for abandoned new or intermediary destinations to become eligible for discounting for other TOCs.	Operator	We acknowledge the concerns expressed by consultees in relation to stations under the International Growth Incentive Scheme not becoming re-eligible for discounts after a TOC's services no longer call there. Our intention is to incentivise growth on HS1 to the maximum extent. First, note our response to ➲ 27 below, where we have agreed to remove the 12-month conditionality in relation to New Intermediate Stations and New Destinations located on HS1 other than St Pancras International (namely Stratford International, Ebbsfleet International, and Ashford International). The question of abandonment by one TOC and the subsequent re-eligibility of another is therefore no longer relevant for those stations as they will always be eligible regardless of whether and when other TOCs started calling there. For all other possible New Destinations or New Intermediate Stations, we have amended the scheme (new paragraph 5.11(a)) to provide that if a New Destination or New Intermediate Station has been the subject of a discount under the scheme, but subsequently is no longer served by a TOC, that New Destination or New Intermediate Station will once again become eligible for discounting under the scheme, except where the following applies. A New Destination or New Intermediate Station will not become re-eligible for a TOC in this way: (a) if the reason that station is no longer served is because that TOC's services displaced all of the services of another TOC which called there, resulting in an Incentive Adjustment; or (b) if it starts calling at that station outside of its Incentive Term. See new paragraphs 5.11 and 5.12 of the scheme. We note that for a second TOC to be able to claim discounts in relation to a qualifying station that was previously, but is no longer, served by another TOC, that second TOC

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			will need the necessary access rights on HS1 in the first place. If the second TOC does not have those rights, it will need to apply for them, which will be subject to regulatory approval.
27	A TOC may deliberately or inadvertently prevent another TOC from benefiting from the intermediate station component of the International Growth Incentive Scheme through serving an intermediate station on HS1 for a short period within the Scheme Period, or only serving it to a limited extent.	Other interested party	We acknowledge and accept consultee representations here in relation to intermediate stations on HS1 (being Stratford, Ebbsfleet and Ashford). We recognise that those stations are under-utilised and therefore believe there is an exceptional case to be made for those stations to ensure that all TOCs have the opportunity to benefit from the intermediate station and new destination incentive component during the Scheme Period, regardless of whether other TOCs have already received discounts in relation to services calling at those stations or continue to do so. Accordingly, we have amended the definition of New Destination, and New Intermediate Station (in paragraphs 5.9 and 5.10 respectively) to remove the present 12-month conditionality for those stations, meaning that a discount will always be available to TOCs who stop at Stratford, Ebbsfleet and Ashford. We also recognise the potential phenomenon of ongoing low service provision to stations by TOCs and how this might prevent other TOCs from qualifying for discounts under the scheme. We wish to see TOCs rewarded for genuine efforts to serve their passengers. However, we cannot be prescriptive about what might constitute low-level service provision as this might vary from station to station, and/or by the phase of TOC operations (for example, during initial ramp-up). Therefore, we have added a discretionary right in the new paragraph 5.11(b), which we must exercise reasonably, to determine that the service level at a New Destination or New Intermediate Station does not provide passengers with a reliable service. The effect of such a determination is that a station will once again become eligible for discounts for other TOCs, notwithstanding the fact it has already been served by another TOC for longer than 12 months.

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			See also our response to ➲ 26 above (and new paragraph 5.11(a)) regarding the availability of discounts in relation to stations which previously attracted discounts, but are no longer served at all.
28	The International Growth Incentive Scheme needs a clearer explanation of the boarding/alighting requirements in the definition of New Intermediate Stations. The definition can be read as allowing for domestic cabotage.	Operator	The International Growth Incentive Scheme is a scheme designed to incentivise the growth in international passenger services, however, it is accepted that paragraph 5.10(c)(ii) of the New Intermediate Station definition could have been interpreted as allowing for the discounting of services where passengers that have boarded at, for example, St Pancras, disembarking at Ebbsfleet. The same wording was used in paragraph 5.9(c) in relation to New Destinations. The intention is that a New Intermediate Station and a New Destination must have the capability for international passengers to board at such a station on outbound services and alight on return services. In other words, it is not intended to incentivise domestic cabotage between HS1 Stations or elsewhere. For disambiguation purposes, paragraph 5.10(c)(ii) (now paragraph 5.10(b)) has been clarified to confirm that boarding and alighting may only be possible over two legs of a journey, and not on the same journey leg. A matching change has been made to paragraph 5.9(c)(ii), now paragraph 5.9(b). See also response to clarification issue ➲ 11 above and new definition of Scheme Station. In order for a station to qualify as a New Intermediate Station or New Destination and so a TOC for a discount under the scheme by operating services there, that station will require an international rail port of entry or specific lawfully approved arrangements which avoid the need for such. This condition is consistent with the original intention of the scheme.
29	The exclusion of new destinations and new intermediate stations within the M25 should be removed as inclusion of such stations within the scheme might drive traffic volume.	Other interested party	The International Growth Incentive Scheme is designed to incentivise growth of services using HS1 and the stations located on it. We have explored the possibility of services calling at non-HS1 stations within the M25 before joining/after leaving HS1, as well as the value of incentivising such a stopping pattern, but consider the present incentivisation to offer the best opportunity for TOCs to realise savings. But we will keep this under review.

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30	The International Growth Incentive Scheme should offer higher incentives for long distance trains to 'second-tier' destinations as those destinations need incentivising the most. All incentives should be conditional on other infrastructure managers offering comparable rebates.	Other interested party	Under regulation, discounting is a discretionary activity. In devising this International Growth Incentive Scheme, we have carefully considered the needs of the market and TOCs' cost bases and calibrated the International Growth Incentive Scheme accordingly. We note the availability of the Getlink and SNCF Réseau discount schemes, but our scheme will not be conditional on the availability or terms of those schemes, or any others, recognising that such other schemes are business decisions for those other infrastructure managers. We are nonetheless working with other infrastructure managers to facilitate growth in international passenger services, and would point to our recent memorandum of understanding with Getlink in that regard.
31	Border controls should be carried out on board trains, avoiding need for dedicated platforms at second-tier destinations.	Other interested party	The International Growth Incentive Scheme recognises the requirements for adequate border control arrangements in accordance with current public authority requirements for international railways. Alternative forms of border controls are a matter for the relevant public authorities and are out of scope of this consultation.
THE NEW ROLLING STOCK INCENTIVE			
32	Reference in the International Growth Incentive Scheme to the requirement for the use of 'state of the art' rolling stock to qualify for the New Rolling Stock Incentive should be removed as it is uncertain.	Operator	We note consultee concerns with the term 'state-of-the-art' in the context of new rolling stock. We have removed its use from the definition of New Rolling Stock in paragraph 1.1 of the scheme, as it is the satisfaction of that definition which drives the availability of the related discount. We have retained its use in paragraph 5.16 as we consider its use there to be contextual only.
33	The International Growth Incentive Scheme should incentivise higher capacity trains to encourage lower cost operators and make services more affordable.	Other interested party	We are hopeful that the International Growth Incentive Scheme's incentivisation of growth will lead to greater customer choice, and greater diversification of offer, including lower fares as a result. Part of that outcome will necessitate a rolling stock solution which is best able to meet demand. We believe rolling stock capacity is a commercial matter for TOCs, based on the development of their business cases.

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THE INCENTIVE ADJUSTMENT			
34	TOCs face no penalty for not running services as per FTAA or by reference to some other floor for usage.	Other interested party	We do not consider a penalty regime for failing to run services to be consistent with TOC business models where they take revenue risk by seeking to match their service offerings to passenger demand, which changes over time. We consider that there are adequate protections against the referenced behaviour both in the International Growth Incentive Scheme itself, and the wider contractual access arrangements for HS1. In that regard, there seems little incentive for a TOC to not operate a Train Slot it has already paid for unless this is unavoidable, even if it has paid for that slot on a discounted basis. We also note that the wash-up mechanisms within the scheme will adjust for further services actually operated, further incentivising TOCs to operate the services they have paid for access for. Separately, we retain the ability under regulations to levy a Capacity Reservation Charge for capacity that is reserved but not used. Ultimately, there are 'use it or lose it' provisions under the Network Code, which could result in TOCs losing their access rights if they are not used without reasonable commercial justification. See also response to ➲ 27 above, where a station can now become re-eligible for discounts under the scheme where it has a low level of service provision.
35	There should be a penalty for TOCs who reintroduce displaced services regardless of whether a related Incentive Adjustment is made, but if one is made, a reimbursement should be made to the adjusted TOC also.	Operator	We consider the mechanics for administering a penalty regime for reintroducing a displaced service to be unworkable, and the circumstances under which it might be said to be warranted remote. The suggestion is that reintroduction has been effected for tactical reasons to undermine competitors. For reintroduction to be relevant at all in this context, the TOC concerned must have taken the not insignificant decision to have first removed that service from its offering, with the attendant disruption to its passengers and revenue loss. We do not consider this to be a cost-free decision for the withdrawing TOC.

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			The suggestion then is that this regime should operate regardless of whether an Incentive Adjustment has been made. This is to invite the idea that a TOC can be penalised for withdrawing, then reintroducing a service where there has been no causal impact on another TOC. We consider it inappropriate to penalise in these circumstances since we expect that TOCs will make changes to their service offerings from time to time in the ordinary course of operations (including, where appropriate, introducing and withdrawing services as necessary to meet demand). We therefore think it would be essential that an Incentive Adjustment has first been made, which requires the invocation and completion of its evidence gathering, determination, and adjustment processes. It is clear at the stage we make any determination to make an Incentive Adjustment that, based on the available evidence, the withdrawal has not been made for tactical reasons but instead because of the new service introduction. Then, at an uncertain point in the future, there would need to be another determination, presumably by us again, that the same displaced service has been reintroduced, but not for the reasons originally evidenced. Such a regime seems to introduce unnecessary complexities around: - the appropriate timeframe over which reintroduction might reasonably be measured. The consultee's suggestion of 3 years from submission of a Displacement Notice is considered too long given the overall length of the scheme, the other complexities below, and the uncertainties this would introduce to all new services operating over HS1; - the latitude, if any, for determining that a new service has really been reintroduced; whether it must be precisely like-for-like, or whether an ostensibly like-for-like service would suffice, with minor timing or calling pattern differences, or different rolling stock, and if so, how minor those differences are allowed to be; and if so, whether there is a cumulative effect of such differences at which point it is impossible to say that two such services are similar enough to treat the second of them as a reintroduction; and

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			- the evidential burden; to justify a 'penalty' and reimbursement of the Incentive Adjustment, it must have become clear that first the withdrawal, then the reintroduction, have, in essence, been made in bad faith, with the sole purpose of inducing an Incentive Adjustment, and that all of this was part of a singular strategy. It is difficult to envisage what kind of evidence would be available to show this, particularly against a backdrop of operators having commercial freedom to change their service offerings from time-to-time. We consider that such a process, even if the complexities above could be resolved to everyone's satisfaction, would place an unreasonable burden on the administration of the International Growth Incentive Scheme.
36	The Incentive Adjustment appears to place the affected party at a disadvantage and marks a different approach from the existing policy, which says "discounts will not be offered for new services where this risks crowding out other well used and/or profitable services". Why would London St Pancras Highspeed only look at this retrospectively?	Operator	This observation risks conflating a number of issues in the existing discount policy around capacity with the Incentive Adjustment processes in the International Growth Incentive Scheme. The existing discount policy is based on a number of principles. The words cited in the comment constitute part of the words from Principle 4. Principle 4 is headed: "*Discounts should not prevent best use being made of HS1 capacity*", and the full Principle reads: "*In particular, discounts will not be offered for new services where this risks crowding out other well used and/or profitable services. This means that it may be necessary to restrict the availability of discounts to all TOCs when HS1 is approaching high levels of utilisation.*" Principle 4 then is about discounting when capacity is full or nearly full on HS1, and not about the situation where simply one TOC's services replace another's, as the Incentive Adjustment process considers. In the circumstances envisaged by Principle 4, we would not offer a discount if the new services associated with the discount proposition we are discussing with a TOC would result in HS1 exceeding its available capacity. Here, the possible discount would be considered to be inducing a capacity problem. The same principle is set out in paragraph 3.3 of the scheme, where we state that, "*Proposed new services which would, in the Infrastructure Manager's opinion, result in*

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			significant capacity constraints on HS1…will not be permitted to qualify for the scheme.” The scheme application process and information call described in paragraph 3 of the scheme will help us to establish whether a capacity problem of the kind envisaged by Principle 4, now paragraph 3.3, is applicable. See also our responses to ➲ 3 and ➲ 4 above in this regard. For these reasons, we do not consider we are taking a different approach from that set out in the existing discount policy, or given the review process at the application stage, that we are only looking at the question of new service impact retrospectively. Turning to the Incentive Adjustment. We do not consider the Incentive Adjustment places the affected party – the Withdrawing TOC – at a disadvantage. It appears the disadvantage suggested here is relative to the part of the existing discount policy statement cited, where, as represented, under that policy, the Withdrawing TOC would not have been put to the task of having to argue a displacement case since the supposed crowding out or displacing service would not have been permitted in the first place. As explained, the effect of Principle 4 has been retained in paragraph 3.3. So the Incentive Adjustment is not substitutive of Principle 4, but supplemental. By the time it comes to the assessment of whether an Incentive Adjustment should be made, it follows that the new services in question must have been introduced. If the application process envisaged in paragraph 3 of the scheme has been duly adhered to for those new services, it also follows that there must not have been an overall capacity issue at the point of application. Overall capacity is not the focus of an Incentive Adjustment assessment, but the cause of the withdrawal of a service is. It will be essential in those circumstances to understand the reasoning for the withdrawal, as well as the surrounding circumstances. Since it will be the Withdrawing TOC that makes the decision to withdraw the relevant service, it would be remiss to try to determine an Incentive Adjustment without the Withdrawing TOC having the opportunity to explain its

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			decision, although it is not a requirement that the Withdrawing TOC initiates the Incentive Adjustment process. Rather than being disadvantaged, a TOC that considers its services have been affected by the introduction of others, now has an opportunity to advocate for a reckoning which it does not have under the existing policy, since the existing policy described a framework for establishing future specific discount schemes, and therefore did not expressly contemplate in-scheme mechanics for assessing ongoing competitive impacts. Notwithstanding the paragraph 3 application process in the scheme, under (now) paragraph 4.3 of the scheme, should "*HS1 utilisation (including its stations)* [*approach*] *capacity*" whether coincident with an Incentive Adjustment, or otherwise, we reserve the right amend, suspend or withdraw the scheme.
37	A potential 12 month window is an unnecessary period of uncertainty as to whether an Incentive Adjustment will be made.	Operator	In devising the International Growth Incentive Scheme, we balanced the potential negative impact of a period of uncertainty before any incentive readjustment, with allowing sufficient time for a service to first be displaced, and then for evidence of the cause of that displacement to be gathered and considered. We also considered when best to make such an adjustment without adding to the administrative burden for TOCs and ourselves of the various existing charge-related calculations that must be made under FTAAs. Moreover, as set out in the new paragraph 5.28 of the scheme, we consider it reasonable as part of our determination around displacement, and so whether an Incentive Adjustment should be made, to assess whether the Withdrawing TOC took reasonable steps to avoid withdrawing the relevant service – see ➲ 38 below. We believe the Withdrawing TOC must be afforded a reasonable period of time to take these steps. Accordingly, the Incentive Adjustment regime is aligned with existing annual wash-up processes to minimise this administrative burden and allow for enough time to be able to make a robust decision. We therefore do not believe further change is needed at this time. We will nevertheless keep the scheme under review to assess its functioning and impact on users.

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38	There is not enough clarity as to what constitutes a displaced service under the Incentive Adjustment, or whether the Incentive Adjustment regime is measured on a service-by-service basis or by volume.	Operator	We acknowledge consultee concerns about what constitutes a displaced service. We have added a definition of Displaced Service which sets out the relevant considerations we must have regard to in determining such a service, and more process from paragraph 5.22 onwards, in each case so that it is clearer when an Incentive Adjustment may or may not be applicable. The fundamentals remain the same. That a TOC which withdraws a service may apply to us to investigate and make a determination as to whether that withdrawal was as a result of the introduction of a new service – in this way, it remains that there must be causality and there must be evidence that the introduction was determinative of the withdrawal. It also remains that we may investigate independently where there is a withdrawal, and that TOCs must cooperate with any investigation. We have added in new paragraph 5.28, the considerations that we must have regard to in making any determination. These considerations comprise taking account of the similarities of the Withdrawn Service with the New Discounted Service, the extent of competition between the two, the reasonable steps, if any, the Withdrawing TOC took to avoid withdrawing the Withdrawn Service, the causality (if any) between the service withdrawal and introduction, and any other relevant consideration. If we conclude, acting reasonably, that the introduction of a new service was determinative of the withdrawal of another, that withdrawn service will be a Displaced Service and an Incentive Adjustment will be made accordingly.
39	The International Growth Incentive Scheme does not offer enough clarity on the information required to invoke the Incentive Adjustment.	Operator	See ➲ 38 above where we have explained, among other things, some of the considerations around the determination of a Displaced Service. We cannot be prescriptive about the information a TOC may wish to provide in seeking to invoke an Incentive Adjustment, since this will turn on the facts of the alleged displacement and new service introduction. But evidence which informed those considerations, including information pertaining to any causality between the two, is expected to be supportive of such a claim.
40	The worked example appears to operate such that the Incentive Adjustment removes half of the discount for new services which	Operator	The Incentive Adjustment mechanism has been designed to operate on a fair and non-discriminatory basis. First, the process for making a claim for an Incentive Adjustment

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	have replaced existing services. If this is correct, it does not appear to be fair and non-discriminatory. The TOC that replaced the services of another would still be paying less IRC than the TOC whose services were replaced.		to be applied is available to all TOCs who reasonably believe their services have been displaced by another's, and that therefore, there is scope for an Incentive Adjustment to be applied to all TOCs. Second, we retain an independent right to investigate those circumstances also which we will exercise in a non-discriminatory manner. It is possible in the scenario described in the comment, that we would have been charging discounted IRC for both the displaced and displacing services. But we acknowledge that it is also possible the displaced service may have attracted full IRC as envisaged. The level of adjustment has been carefully considered with a range of views from consultees taken account of during its development. The level of adjustment seeks to balance (1) the need to appropriately disincentivise the introduction of new services which replace others, with (2) the need to avoid discouraging new service introduction in the first place by setting the possible withdrawal risk premium too high. We believe 50% strikes this balance, representing a meaningful loss of discount which would be applied during a period when the TOC concerned is still trying to establish its new service and achieve financial break even on them. We believe that the loss of discount risk will not only be factored into the impact assessment a TOC must make when it first applies for discounting any new service, but will also serve to regulate behaviours following new service introduction, since those behaviours could form part of any withdrawal causation argument when an Incentive Adjustment is being contemplated. Accordingly, we believe the level of adjustment we have set to be appropriate. However, in this context we have also recognised that the original calculation could lead to an outcome where a TOC that introduces a new service which displaces multiple other services, could, despite the 50% calibration, end up in a situation where the Incentive Adjustment is greater than the discount it received for that new service and the other new services it had introduced. We have therefore adjusted the calculation to provide that the number of displaced train slots can be no more than the number of the train slots which qualified for the New Services Growth Incentive

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			discount so that an Incentive Adjustment remains proportionate to the discount received in the first place.
THE PASSENGER INCENTIVE			
41	Spend and promotion under the Passenger Incentive should match route and stopping pattern destinations.	Other interested party	As outlined in the consultation, the marketing fund spend will be a matter of negotiation and agreement with the relevant TOCs. This is likely to be tailored to market need and opportunity. We will not impose any rigid spend allocation which may inadvertently disadvantage a given destination, i.e. limiting spend on x stations to y amount when parties agree they want to spend more to promote greater usage there.
42	The period between the reporting by TOCs of passenger numbers (monthly) and the potential marketing spend under the Passenger Incentive (annual) is too wide a gap Funds should be available on a quarterly basis to: • allow quicker investment • provide better visibility of available marketing funds • simplify planning for tactical and seasonal campaigns.	Operator	We note the consultee's comments here, however we do not believe the reporting-to-spending gap to be too wide. In devising this part of the International Growth Incentive Scheme, we have sought to balance the potential need for rapid marketing spend against the need of our business and those of the TOCs for efficient administration. In this instance, in our view: (a) the monthly reporting requirements are necessary for us to determine the amount of incentive earned and to deposit the associated funds into the relevant account; and (b) the annual spend availability is necessary to allow sufficient time to plan expenditure from the joint marketing fund without creating an over burdensome resource demand, recognising that we may need to be across multiple separate, but concurrent conversations. We do not think there is anything to stop marketing discussions on an anticipatory basis so that the relevant funds, if realised, are available to spend promptly after they are released.
43	There must be clear rules in the Passenger Incentive around the governing of the joint marketing fund spend.	Operator	We note the consultee's comments here and recognise that more objective criteria in how any joint marketing funding is to be spent may help increase confidence that such monies are being spent in a fair and non-discriminatory manner. Accordingly, we have included clearer parameters around spending from the funds in a revised paragraph 7 of the scheme.

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			These provisions make clear that: (a) marketing campaigns, activities and spend may only be agreed and implemented to achieve a specified marketing purpose that centres around the promotion of TOC services, its and our brands, the broader high-speed rail opportunity (including promoting modal shift) and/or increasing passenger demand; (b) any marketing campaign or individual activity must be legally compliant, and consistent with the appliable brands; and (c) London St Pancras Highspeed will not through the fund (or otherwise) carry out any marketing campaign or activity which would denigrate the brand of another.
44	The Passenger Incentive component of the International Growth Incentive Scheme anticipates an unacceptable level of London St Pancras Highspeed involvement in the marketing fund spend and the proposal needs to be radically reworked or removed. The level of coordination London St Pancras Highspeed will undertake with each TOC operating in a competing market gives rise to potential competition risks for London St Pancras Highspeed. London St Pancras Highspeed also reserves to itself the power to determine fund application in the case of disagreement.	Operator	We do not consider our involvement in how the funds in a Passenger Joint Account may be spent is intrusive or gives rise to competition risks for us. We have considered similar arrangements from other transport sectors and seen how they can work to promote mutually beneficial interests. Nonetheless, we have recognised that clearer criteria for the discussions we might be involved in, and the possible spend might be helpful to assuage the kind of fears expressed. Therefore, we have added provisions to paragraph 7 of the scheme which make clear that: (a) marketing campaigns, activities and spend may only be agreed and implemented to achieve a specified marketing purpose that centres around the promotion of TOC services, its and our brands, the broader high-speed rail opportunity (including promoting modal shift) and/or increasing passenger demand; (b) any marketing campaign or individual activity must be legally compliant, and consistent with the appliable brands; and (c) London St Pancras Highspeed will not through the fund (or otherwise) carry out any marketing campaign or activity which would denigrate the brand of another. The only circumstance in which London St Pancras Highspeed reserved a right to determine spend was when there were unspent funds in the relevant account at the

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			end of a TOC's Incentive Term because of a failure to agree. Otherwise agreement was required. However, we have now changed the relevant provision to provide that if there are unspent funds because of a failure to agree, those funds will be split 50:50 between the TOC and London St Pancras Highspeed 12 months after the relevant Incentive Term. Both London St Pancras Highspeed and the TOC must spend their half on marketing of their business – in the case of the TOC, their business operating passenger services on HS1. It is necessary to prescribe the returned funds are spent on marketing in order to ensure consistent accounting treatment applies to those funds at all times. See also ➲ 43 above.
45	The marketing fund should be a single joint fund (based on global passenger volumes) to promote international rail travel in general (and HS1/system) and not a series of individual "*operator pots*". This would also result in more efficient spend.	Operator	We do not consider a single fund to be workable. Given the freedom TOCs have as to when their Incentive Terms start, a single fund will likely grow and be drawn from at irregular rates which may or may not result in marketing spend which does not benefit all TOCs that have not yet qualified for the scheme or over benefits those that have. A single fund over which London St Pancras Highspeed and multiple TOCs have a say as to how that fund is spent strikes us as far from efficient. Reaching agreement on the marketing activities and their focus in these circumstances seems challenging. We consider a TOC-specific fund approach will better incentivise TOCs to engage with the Marketing Purpose we have added and the process envisaged by the Passenger Incentive.
46	50% release of unspent funds post Incentive Term if there is no agreement is welcome, but this release only occurs 12 months after the Incentive Term ends, meaning TOCs could face a wait of up to four years before any portion of funds can be accessed without joint sign-off. Long backstop does not incentivise timely agreement. So long as operator acts as an Efficient Operator (a familiar concept in UK TOCs) then it should be able to spend from the	Operator	We consider it unlikely that funds generated from the outset of a TOC's Incentive Term would remain unspent by its end, resulting in the 4 year distribution scenario painted. It is much more likely that funds generated in the final year of a TOC's Incentive Term would remain unspent by that time, in which case those funds would only be retained for a maximum of 12 months thereafter. Since the funds from the final year of an Incentive Term will only be paid into the Joint Marketing Fund after the end of that year, we consider the period of 12 months is an appropriate backstop in order to allow London St Pancras Highspeed and the relevant

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	Joint Marketing Fund without LPSH consent, but London St Pancras Highspeed could challenge if TOC spends outside Efficient Operator norms. Alternatively, if joint approval structure retained, scheme should allow for annual releases of unspent funds within 3 months of Incentive Year end. This would incentivise swift agreement, drive quicker redeployment of funds and prevent significant balance build up.		TOC sufficient time to determine how those funds should be spent in fulfilling the Marketing Purpose. We consider the notional Efficient Operator to be an appropriate concept in the context of measuring an actual TOC's performance against tangible deliverables. As marketing is a relatively subjective deliverable, we do not consider it would be practicable for London St Pancras Highspeed to assess, and if necessary challenge, whether a TOC had met the Efficient Operator standard. The point of accruing funds across the full Incentive Term is to maximise the prospect that those funds will be deployed to achieve the Passenger Incentive objective – to achieve the Marketing Purpose. We are of the view that an annual release of unspent funds would in fact increase the risk of non-agreement. It would also diminish the flexibility of the parties to achieve the Marketing Purpose, should they agree to build up the funds to launch a particularly significant marketing campaign. See also ➲ 44 above.
47	The revised draft of paragraph 7 (Passenger Incentive) implies that London St Pancras Highspeed branding should appear in campaigns funded via the joint account, but this is not explicitly stated. We would appreciate clarification on whether co-branding is mandatory for all activity supported by the fund.	Operator	In our view, it is clear that co-branding is the expected norm for all activity supported by the joint marketing fund. Paragraph 7.7 states that a component of the Marketing Purpose is to directly promote awareness of the London St Pancras Highspeed brand. Paragraph 7.8 says that the Infrastructure Manager and the relevant TOC must deploy the funds in the joint account to carry out the non-exhaustive list of Marketing Activities listed there in order to achieve the Marketing Purpose. On this basis, a Marketing Activity which did not contain the London St Pancras Highspeed brand would be unlikely to be directly promoting it. However, nothing precludes the parties from agreeing to do otherwise.
48	It is a positive change for London St Pancras Highspeed to publish the terms of each marketing agreement on its website, increasing transparency.	Operator	To be clear, paragraph 7.3 states that the common terms of each marketing agreement will be published. We anticipate the provisions which will govern the mechanics for accruing funds and spending them, the process for the parties to reach agreement or resolve differences, intellectual property governance, information handling, the marketing restrictions, and subcontracting interfaces to be common among all TOCs and so published. But we do not anticipate, for example, that specific branding

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			standards or guidelines will be published and so these will be redacted from published agreements.
IRC PAYMENT TERMS			
49	London St Pancras Highspeed requires the payment of Investment Recovery Charge quarterly in advance. London St Pancras Highspeed should offer more favourable payment terms as this is a barrier to growth.	Operator	Payment terms are out of scope of the International Growth Incentive Scheme consultation. Nevertheless, as outlined in section 4.9 to 4.11 of the ORR's '*Criteria and Procedures for the approval of framework agreements on the HS1 network*', we welcome any application by any TOC who meets the criteria stated there to justify a variation of payment terms. Generally, that criteria focuses on small TOCs.
ETCS INTRODUCTION			
50	Additional technical requirements are fundamental to make HS1 more attractive for operations. The full implementation of European Train Control System is crucial to removing barriers to entry.	Operator	Signalling interoperability is outside the scope of the International Growth Incentive Scheme consultation. We nevertheless recognise the potential barriers to entry caused by the evolution of technical systems, including signalling. We operate a TSI compliant railway and are committed to switching to ERTMS and maintaining interoperability with adjacent infrastructure managers. We are currently developing a road map that integrates the needs of existing and future users.

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