

# Framework for access and joint industry processes

**Commission to deliver a simpler and more integrated railway**

**Discussion paper 4.1**

14 March 2023

## Summary

In July 2022 the DfT commissioned GBRTT to lead work in developing reforms to the framework that governs access and key joint processes across the multi-user railway and to identify simplifications and efficiencies to industry processes, codes and supporting architecture. GBRTT has been drawing on and engaging with Office of Rail and Road (ORR) and wider expertise in the sector to develop and challenge propositions, options, and recommendations. It has now consolidated these into discussion papers which we are now sharing with industry partners for review and comment with the intention of incorporating this feedback into recommendations to the Department for Transport (DfT) later in 2023

We welcome your participation in the discussion. The Commission will work closely with the ORR and engage across the rail industry, in particular with freight users and operators, the full range of passenger operators and the devolved administrations, to ensure benefits and impacts of simplifications and efficiencies are fully understood.

The framework that governs use of the railway and joint industry processes is made up of instruments including the Access and Management Regulations, Network Rail's network licence and station and depot licences, regulated access contracts and the incorporated Codes and Conditions. This paper discusses where there may be opportunities, problems and issues in the framework, and sets out some proposals for the next stages of the project.

- **Proposes key features of the future framework** that can be used in developing final recommendations to DfT later in 2023 (Section 3)
- **Proposes further work to clarify where requirements should sit in different levels of the framework** – across secondary legislation, the GBR Licence, the new Access and Use Policy and the GBR Code. (Section 4.2)
- Recommends **migrating today's Network Code and other industry-governed Codes and Conditions into a new GBR Code**, with a new change mechanism overseen by ORR (Section 4.4).

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# 1. Introduction and opportunities

Every railway – whatever its organisational structure – has a set of rules, processes, and ways of working to reach the critical decisions that have multiple system impacts. The Commission has identified three key areas where shared decisions are critical, which we are considering in the separate workstreams:

1. Deciding the best mix of services to use capacity for passengers and freight – a process which ultimately results in the creation of the timetable and engineering access plans,
2. Working as a system to tackle delay and disruption during operations, collecting and analysing performance data, and
3. Managing changes, including for stations and depots.

There will always be multiple external parties and/or internal departments that have a strong interest in these decisions. The framework under discussion in this paper exists to control how decisions are taken today and who is involved. It has been built on and adjusted since privatisation, including through the addition of legislative rules, many of which came from the UK's membership of the EU.

Creating an integrated body presents **a new opportunity to join up key decisions** that GBR has to take as infrastructure manager and as franchising authority, and to deliver additional benefit. For instance, an integrated body can join up operational contingency plans developed with the wider sector (governing what happens during disruption) with the specification of franchises.

It also presents **a major opportunity to act as a proactive, motivated agent that is seeking overall value from the railway**. An integrated body is able to plan contracted services and work with non-contracted parties to secure social and economic value from freight and passenger services overall. It can seek to deliver efficient use of the national asset through service and timetable integration, while still working effectively with private non-GBR operators to unlock innovation and value, including through freight and open access passenger services. The aim is to integrate and guide plans for the industry.

There are also **major opportunities to reduce red-tape and simplify costly processes where they do not add value for railway users or taxpayers**. This must be done while building in critical controls that matter to railway businesses and also ensuring GBR does not discriminate unfairly in favour of its own budgets or its own contracted operators.

## 2. Problems and issues

### 2.1. Problems and issues in today's framework

- a) **The degree of detail contained in the Access and Management Regulations (secondary legislation) reduces agility by making procedural change hard.** The Access and Management Regulations<sup>1</sup> ensure fairness and non-discrimination by the infrastructure manager and these principles will remain. Some parts of today's Access and Management Regulations mandate specific procedures and how to undertake tasks. Some are relatively trivial, and others provide needed certainty. However, some of these requirements play a role in making the framework unresponsive to changes in the sector or in technology. For instance, there are detailed requirements on delay attribution (allowable types of delay) and rules for timetabling. Some of these controls exist to create a single system across different networks, issues that will remain important to consider in respect of other infrastructure managers.
- b) There are **long-running problems with behaviours, complexity and bureaucracy in today's framework** – which are issues for all parties. Only part of the complexity is in the rules and controls, with other issues caused by behaviours and ways of working. This includes Network Rail processes which are often risk averse and focused on assets, not users. GBR will need a user-led focus and must find a new balance. Behaviours in the sector respond to incentives, and today's incentives are often misaligned, focussing parties on different issues - for instance giving them different priorities in tackling delay and disruption. Incentives can also create perverse behaviour and divert industry focus for finding efficient solutions for users. Too often, complex legal agreements and processes require specialist knowledge and act as a barrier to investment or change – for instance at stations or depots, where complex change processes add cost and friction. Change cannot be just “simpler for GBR”. It must be simpler and better for all parties.
- c) **The process for making changes to Codes, Conditions and detailed contractual rules provides key protections, but can also be a barrier to agility.** There should always be appropriate checks on change to the rules but making simple changes disproportionately hard to achieve has a chilling effect on innovation and evolution. Parties have the ability to delay proposals and have little incentive to agree system improvements that have benefits *for other parties* or provide *whole-system affordability and value*.
- d) **In some areas, disputes drive disproportionate cost and effort and are open to gaming, diverting industry attention from improving outcomes.** In addition, delays by Network Rail and operators in resolving challenges can make decisions undeliverable. Codes and Conditions today make provisions for dispute in multiple areas such as delay attribution, timetabling and station or depot processes. There are important reasons to provide independent, trustworthy methods to resolve issues. The ability to challenge decisions and have them reviewed plays important roles commercially and in operational terms, including shining a light on poor quality decisions. However reshaping could deliver improvements for all parties and could bring a common approach across track, station and depot access agreements.

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<sup>1</sup> In this paper, references to secondary legislation are references to the Railways (Access, Management and Licensing of Railway Undertakings) Regulations 2016, and to the associated implementing regulations.

## 2.2. Barriers to delivering benefits

- e) **Today's legal framework does not recognise an integrated body with a duty to maximise social and economic benefit and deliver for passengers and freight, working to government priorities.** It therefore does not include any enabling measures designed for such a body. If we fail to recognise the new role for GBR, the obligations on GBR (or Secretary of State) may be unclear or conflict. We could also create investor uncertainty, undue complexity for ORR and potential legal challenge.
- f) **The industry-governed process for managing change to agreements such as the Network Code is unlikely to be fit for purpose in the new sector model.** Multi-party governance of codes and agreements attempts to strike a balance between flexibility and protection for businesses and users but does not always do so. It broadly assumes the interests of individual train operators are good proxies for user interest and efficiency and are separate from the interests of an infrastructure manager. This works for some operators, but not for others, for instance giving no weight to the funder or franchising authority who may hold a significant portion of the user interest (eg by holding long term revenue risk). As a result, this system is weak at identifying, evaluating or delivering overall system benefit. The envisaged protections the model provides for independent TOCs and FOCs are likely to become much less robust when GBR becomes franchising authority.
- g) **Requirements in secondary legislation for infrastructure managers to have performance-related incentive payments for every operator do not take account of an integrated infrastructure manager and franchising authority.** Alternative options for incentivising performance for GBR TOCs (and GBR functions) on a whole-system therefore need to be explored. Any future alternative measures must be tested and developed with PSC bidders. They must also align with the financial framework and other controls placed on GBR by government. Any new incentives cannot be allowed to reduce the focus that Network Rail currently has on tackling poor performance (including asset performance) for passengers and freight users.
- h) **Existing legal requirements for access charges could prevent longer term simplifications being realised under the new GBR structure.** The current charging requirements were not designed to fit the proposed integrated structure meaning there may be built in complexities or unnecessary money flows. This requires further work.

Q1 - Are the problems, issues and barriers set out in Section 2 recognisable and do they have significant impacts?

Q2 - Are there missing problems, issues or barriers in Section 2?

### 3. Requirements and features of the future framework proposition

This section sets out possible features of the future framework to explore with the industry and our partners. These largely relate to the overall framework of laws and legal agreements or instruments that collectively control decisions on use of the railway and the operation of industry processes. Features or requirements for specific processes such as capacity and timetabling, station / depot change, or delay attribution are not included below, but are covered in other discussion papers.

The proposals below are grouped in three areas which are all important goals for reform and GBR's role: "shaping", "serving" and "simplifying".

#### 3.1. Shaping

**Shaping:** creating an integrated body that is able to shape key choices, set direction and lead joint working for the industry

- i. **GBR should be accountable and responsible for planning and managing use of the railway**, working within the legal requirements (including ORR oversight), in line with the strategy set by Government, and delivering its duties to seek social and economic value efficiently. GBR's new duties and functions will incorporate the current legal role given to the infrastructure manager to manage capacity on the network, and the role of franchising authority in England. In practical terms, GBR should be the party that leads the optioneering, analysis and assessment that is necessary to underpin choices about the use of the railway. It will do this within a legal context where ORR is accountable for approving and directing access decisions and ensuring fairness and non-discrimination in GBR's decision making, as set out in primary legislation and secondary legislation as today.
- ii. **GBR should have necessary legal freedoms to develop new operating contracts and relationships with its own contracted TOCs in order to deliver the benefits of integration**, including through new performance incentives and shared goals, while recognising that access terms will always be regulated by the ORR. The change in the contractual relationship for these GBR operators needs to be recognised explicitly where necessary. In particular, the requirements and rights in GBR's passenger service contracts and access contracts must work together and avoid overlaps or tensions. GBR also needs appropriate freedom as contracting body to design its own operating contracts flexibly and include a range of terms on risk and delivery – without being unduly constrained.
- iii. **The framework should explicitly require GBR to efficiently deliver social and economic benefit from rail overall, including through planning and managing use of the railway.** Government has not yet issued its plans for legislation, but the Government consultation document proposed that GBR is given duties and obligations to deliver socially and economically. There are opportunities to make this clearly in order to benefit all users of the railway, For instance, secondary legislation and the GBR licence could set out how GBR will approach decisions at a high level, and how GBR's strategic social and economic analysis will be shaped.

## 3.2 Serving

**Serving:** putting the interests of passengers and freight customers first and working actively to support all parts of the industry

- iv. **GBR will have legal requirements to be non-discriminatory when discharging relevant functions and will be working within the requirements of competition law.** GBR decisions in relation to access and use of the railway for GBR contracted passenger services should be assessed on the same transparent and non-discriminatory criteria as non-contracted operators. Non-discrimination and competition issues will ultimately be overseen by the ORR.
- v. **ORR will maintain its role in providing robust independent regulatory oversight of the access framework.** This includes approving access contracts, their role with respect to access appeals and maintaining the power to direct that access to the network must be granted by GBR. ORR will also continue its role in relation to access charges, which will continue to be set through the periodic review process for all operators on the national rail network.

It is proposed by DfT that ORR should have a legal duty to facilitate GBR's Policy on Access and Use of the Railway, where it has received Secretary of State approval however, but all ORR decisions will continue to be taken as a result of independent consideration of their wider duties.

- vi. **Freight operators, open access operators and charters and devolved authority services should be given transparency, visibility and a strong voice,** allowing them to develop and implement their own plans and have influence over critical railway decisions.

Freight and non-GBR passenger operators will continue to create social and economic value by using the GBR network, and actively securing such value will be key part of how GBR delivers its duties. These parties require confidence to plan and invest, and GBR will need to create a supportive business environment for all operators and users, with transparency on how decisions are taken. Given the regional structure planned for GBR, special focus needs to be given to the cross-regional flows that are at the core of the freight sector and are also of high value to GBR and some key devolved operations.

- vii. **Industry parties need the ability to challenge GBR's planning and decision-making processes, at the right points, with access to timely remedies.** Independent, accessible dispute processes will continue to provide benefits to the sector. They will continue play an important role in ensuring GBR decisions are fair, well-evidenced and reasonable – just as they do for Network Rail. Appeal and dispute mechanisms will need to reflect the new model however, for example where capacity questions are determined at an earlier stage of the process than today. There will also be new dynamics created in respect of GBR-contracted TOCs. Firstly, any new commercial incentives on performance which are developed for GBR-contracted TOCs could radically reduce the scale of delay attribution disputes while increasing focus on analysis and insight. Subject to further work, decisions and disputes for GBR TOCs may be better resolved within the scope of the service contract, instead of by following today's industry processes. Such changing dynamics are likely to require the dispute bodies, GBR and the wider sector to review and refresh rules and approaches.



### 3.3 Simplifying

**Simplifying:** Recommendations that promote simplification and efficiency for industry processes and railway businesses

- viii. **There should be an agile approach to updating industry procedures and controls in a reasonable and proportionate way.** The processes we use to amend procedures and controls should be accessible and should be better at allowing evolution and agility. However, they must also provide a voice and appropriate protections for impacted parties, with effective ways to influence decisions, protect business interests and ensure new systems do not offer worse outcomes. Changes to the framework must take **account** of long-term objectives for rail and businesses, not just short-term business pressures.
- ix. **Opportunities should be considered for simplifying elements of the charging framework in order to avoid complex money flows.** Where requirements on charging currently contained in legislation limit potential simplifications they should be reviewed as the industry structure evolves, whilst retaining requirements that are critical for non-discrimination.
- x. **Formal requirements for delay attribution and incentive regimes should support evolution in performance analysis systems and support effective incentivisation for all parties.** Transition in any transition to simplified or modified systems can be complex, however, and therefore, the framework should promote good outcomes for freight and passengers at all stages.

Q3 - Do you agree the proposed framework features set out in Section 3 are relevant, helpful or necessary for the future framework?

Are we missing significant propositions for the future framework?



## 4. Changes to framework structure

### 4.1 High level structure of key instruments

#### The structure today

Currently, obligations and rules for access and joint processes are set in a range of different instruments, contracts and policies. The key instruments that make up this framework today are:

- Primary and secondary legislation,
- the Network Rail network, station and depot licences,
- access contracts,
- Network code and other agreements incorporated in access contracts, and
- ORR policies and processes.

Whilst these are the instruments which are in scope of this project, we recognise there are other instruments, such as the High-Level Output Statements issued by the Secretary of State and Scottish Ministers and the Secretary of State's Guidance to ORR that may also have impacts on access beneficiaries and influence decisions, including regulated charges. Stakeholders may want to consider this wider range of instruments when thinking about the operation of the legal and contractual system.

#### Future structure

Some major changes to the key documents in the framework were proposed by DfT in their consultation for rail reform legislation<sup>2</sup>. Confirmation of any changes will be set out in the Government's response to that consultation, but the changes proposed included:

1. GBR will produce a new **Access and Use Policy**. ORR will have a legal duty to have regard to or facilitate this policy, where it has received Secretary of State approval, alongside its wider duties as independent regulator. It will be approved by the Secretary of State, with appropriate input from devolved rail bodies. The Policy will set out requirements and principles for GBR decisions that GBR will follow.
2. A new **GBR Licence** will be issued which will set conditions on behaviour, duties and functions. It will be issued by the Secretary of State, taking account of devolved body views, and enforced by the ORR. Network Rail's licence will be revoked.
3. The Secretary of State's **Long-term Strategy for Rail** will set the key strategic objectives that GBR must seek to deliver when discharging its functions and will provide a key steer for GBR decisions alongside any **Directions or Guidance**.

In this paper, we are looking to explore one further change to the framework of contracts:

4. The creation of a "**GBR Code**" to replace the Network Code, incorporated documents and the key parts of today's station and depot access conditions. This is discussed below in the section on governing change to rules and processes.

In the new structure, there is an opportunity to ensure all the key instruments are deliberately designed and utilised to deliver the Long-term Strategy for Rail. Instruments such as GBR's TOC contracts ("Passenger Service Contracts"), GBR's Access and Use Policy and GBR

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<sup>2</sup> The Williams-Shapps Plan for Rail: A Consultation on Legislation to Implement Rail Transformation, June 2022

decisions on future capacity can use the same criteria and aim at the same objectives. They can therefore be used much more effectively than today to deliver agreed goals for freight users and passengers. This is one of the key transformation opportunities of rail reform.

## 4.2 Designing future instruments

Over the next few months, more work and discussion with the industry will be needed. Later in 2023, we aim to make clear recommendations on how and where different types of rules and controls should be encoded, for instance where changes to secondary legislation might be necessary, the GBR Licence, the new Access and Use Policy and/or the GBR Code. This has already been touched on above, in the discussion of whether detailed rules belong in legislation, and whether the current overlapping controls in different contracts and documents could be simplified to allow easier change.

This work will take account of the requirements and feature that are set out for discussion in section 3. It will build on today's approach and documents. Key questions for where controls sit will include:

- Should the requirement be multi-lateral, bilateral or binding just on GBR?
- Is the intention to have a long or short-term influence on behaviours and activities?
- How should change work (Parliament, Secretary of State, ORR oversight, consultation requirements)?
- How difficult should it be to change an element, and how often will the industry need to change it?
- Is there appropriate confidence or certainty being provided to parties? What would be the likely impact of a change on access customers, railway users or GBR?
- Are the challenge and redress mechanisms appropriate, e.g., contractual provisions, dispute mechanisms or rights of appeal?

This is an illustrative list of issues, and we welcome industry discussion and input to ensure the right questions are being addressed in Phase 2 of the Commission.

Q4 - Are there other questions that are important when considering which controls and requirements should sit in which instruments (Section 4.2)?

## 4.3 Holding GBR to account

GBR, as an integrated body, needs to meet a high standard of accountability in order to serve all users and deliver overall value. ORR will have a significant role in holding GBR to account against its licence and for delivery of the final determination as part of the control period process. This includes holding GBR to account for the performance it delivers to operators and to rail users – both passengers and freight.

The new body will have different incentives to Network Rail, and there must be proper controls in the framework to ensure GBR does not discriminate in favour of its own contracted operators (or any other operator or user of the network) when exercising its functions. The risk of discrimination is already specifically addressed in legislation, and in other key legal obligations today, including Network Rail's licence. Major controls include:

- Primary and secondary legislation provides **powers and duties for ORR to approve and/or direct access, and an ORR power to issue standard access contract terms.**
- Access beneficiaries have **rights of appeal to ORR in the Access and Management Regulations**, which should be retained.

- The Access and Management Regulations include **obligations for access to be equitable, non-discriminatory and transparent**. The Network Rail Licence sets out similar requirements to ensure access terms are fair, reasonable and non-discriminatory. Similar controls should be retained and compliance with both instruments should continue to be enforced by ORR.
- **Contractual rights and obligations** in access agreements.
- **Independent dispute and appeal processes**

The ability of the industry and stakeholders to hold GBR to account also relies on information and transparency. There should be effective requirements on GBR to ensure it is transparent in key areas and we are keen to work with the industry on defining the right approach.

As already noted, fair and independent dispute processes will continue to be important for access customers and will play a valuable role in holding GBR to account. This needs to align with the other forms of recourse and challenge available to industry participants under contract law and the wider legal framework that ensures non-discrimination. We consider that the changing status of GBR operators will have an impact on which parties are raising disputes and which matters are most frequently challenged – although this will depend on the commercial model for GBR-contracted TOCs and which risks they are exposed to. These will be valuable issues to explore in Phase 2 of the Commission.

Q5 - Do you have specific views on holding GBR to account for delivery, performance, and non-discrimination (Section 4.3)

#### 4.4 Governing change to processes and rules

This paper is about the way processes and obligations are written down and enforced for the industry. This section considers how changes are made to these written-down rules.

In the principles section above, we have proposed that a more agile approach to framework change should be an outcome we are actively seeking to deliver through rail reform. There are three main reasons why we have included this as a principle.

Firstly, we propose that **the overlapping and duplication of controls and rules across different legal instruments is, in itself, a barrier to agility** and should be addressed.

The spread of controls and rules that affect the same procedures has often grown up over time without consideration of how it impacts agility. For instance, delay attribution procedures feature in the Access and Management Regulations, the Network Code, the DAPR and Track Access Agreements. This reflects the different purposes of these instruments. However, all of these legal instruments and agreements have separate change processes, which can make process change harder than it needs to be.

Secondly, **the legal model for today's "industry governed" agreements is not aligned with the new roles in the sector and needs new governance for change in order to balance agility with protection**.

Today, changes to the Network Code are governed by the process set out in part C of the Code. This requires voting by class representative committee. Similar industry governance processes are included in station and depot access conditions and other industry governed agreements such as DAPR or ROC.

The current system is not consistently achieving the right balance between individual protections, system outcomes and overall agility.

Following rail reform, the majority of train operators on the GBR network would become the directly contracted operators of GBR. In this context, today's voting mechanisms would be hard to maintain. Voting might either privilege GBR interests heavily, reducing the voice for freight or other passenger operators, or (conversely) it could provide an additional source of friction between GBR and its own contractors. Unless the system is revised, there is also no explicit channel for GBR as franchising authority, who is only represented *via* contractors that have separate business goals.

Thirdly, **the inclusion of detailed rules and procedural requirements in the secondary legislation is a barrier to agile change.**

Making changes to secondary legislation is a lengthy and relatively rare process, requiring Parliamentary approval and the process relies on the availability of a legislative vehicle. There is therefore a case that detailed rules for specific processes should not be included in legislation. Each element will be different, and we recognise that there may be a case to retain process details where necessary. Further work needs to be done to ensure systems can still be effectively aligned across different UK infrastructure managers, offer reasonable certainty for all parties and provide a clear mandate for decisions to be taken.

This paper sets out (above) some propositions that are relevant to how change to the rules should be managed in the future. More specifically, we want to explore three areas:

- i. That a GBR Code is created to replace existing instruments. The majority of provisions in the current industry-governed process agreements (including Network Code and incorporated documents, and the station or depot access conditions) would be moved into the GBR Code.
  - o This will include new change arrangements overseen by the ORR (see 4.4. below).
  - o Further work will consider if some requirements currently in these agreements should be moved into GBR's new Access and Use Policy or other places ( see 4.2)
  - o Further work will be needed on issues for other UK infrastructure managers, and the operators that use them.
- ii. Wherever possible, duplication and overlapping controls should be avoided unless there is a clear benefit. It should be possible to make reasonable changes to processes by following a single change process, whilst respecting the need for commercially significant issues to be adequately reflected in contracts.
- iii. That, subject to further work with industry to explore impacts, some of the existing detailed rules could be removed from secondary legislation, balancing the need for agility with other objectives and considering the impact on other infrastructure managers and operators that use several networks.

Q6 - Do you have comments on the high level propositions set out in Section 4.4 to :

- introduce a GBR Code
- reduce overlapping controls and duplications, and
- remove some procedural requirements from the secondary legislation?

The creation of a GBR Code is not a novel proposition and would bring the approach for the GB network broadly into line with a model followed by other infrastructure managers in GB, and with the model used in Europe.

The **change process for the GBR code** will be critical for railway operators and will need to be developed in more detail working closely with the industry and the ORR - taking account of the principles set out earlier in this paper. Propositions we would like to explore with the industry include:

- A change to a GBR process should require significant consultation. GBR should be required to engage effectively with the industry and affected parties.
- There should be a comprehensive impact assessment where the change has a major impact on third parties. Minor changes with more limited impacts should become simpler, removing barriers where they are disproportionate.
- Where a change to procedures has a direct cost to a railway business GBR should reflect operator views and amend proposals accordingly.
- If process change materially impact the reasonable expectations and business value of third parties, this would need to be recognised with compensation.
- Change proposals should take account of the full range of customer, economic and social issues, including long-term railway use, and take account of representations on these issues.
- ORR would assess change proposals to ensure consultation has been effective, objections and evidence provided have been considered and reflected, and data and assumptions are robust.
- Under ORR oversight, GBR should be able to make reasonable changes to the Code, where impacts on contracted parties have been properly recognised and relevant issues have been considered.

This represents a shift away from today's system of class representative voting. Further work with ORR and industry will be needed to ensure there is clarity on what constitutes reasonable change. We also recognise that compensation provisions can be hard to get right and would need to be carefully designed to ensure they do not delay change unduly, and so that they are fair, timely and avoid gaming on all sides.

Q7 - Do you have views on how to design the GBR Code change mechanism described in Section 4.4?

**Careful thought will need to be given to transition**, as the Network Code, Station and Depot Access Conditions and other joint agreements are a key part of current access agreements. It will be critical to recognise existing contractual rights and protections at each stage of transition. Detailed work has not been done on this, and we are keen to work with the industry on implementation options.

Some elements of today's Network Code, access conditions or other industry agreements are likely to need priority changes to enable the propositions being explored by the Commission, whilst others will not need significant revision. More work with the industry will be needed to examine options for such priority changes. These could include changes to timetable decision criteria to align them with other GBR decisions, or potential to revise provisions that govern delay attribution to support (or reflect) the introduction of new automatic systems and provide a stronger focus on insight and management action. We also anticipate that some elements included today in codes, access conditions and similar incorporated documents might be better controlled or set out in the new Access and Use Policy – or even in secondary legislation. The key issues that would inform this kind of decision are set out above in section 4.2 on designing future instruments.

Further work is needed on transition during the next phase of the Commission, and the issues are therefore not explored in detail in this paper.

Q8 - Do you have any further comments on the issues explored in the paper?

### Summary of questions in this paper:

Q1: Are the problems, issues and barriers set out in Section 2 recognisable and do they have significant impacts?

Q2: Are there missing problems, issues or barriers in Section 2?

Q3: Do you agree the proposed framework features set out in Section 3 are relevant, helpful or necessary for the future framework? Are we missing significant propositions for the future framework?

Q4: Are there other questions that are important when considering which controls and requirements should sit in which instruments (Section 4.2)?

Q5: Do you have specific views on holding GBR to account for delivery, performance, and non-discrimination (Section 4.3)?

Q6: Do you have comments on the high-level propositions set out in Section 4.4 to:

- introduce a GBR Code,
- reduce overlapping controls and duplications, and
- remove some procedural requirements from the secondary legislation?

Q7: Do you have views on how to design the GBR Code change mechanism described in Section 4.4?

Q8: Do you have any further comments on the issues explored in this paper?