Dear Alexandra,

**GB Railfreight Ltd. response to the Office of Rail Regulation PR13 Review on The Volume Incentive Consultation:**

GB Railfreight Ltd. is pleased to respond to this consultation on the review of the PR13 Volume Incentive with some general comments and answers to specific questions in Annex D of the consultation.

**General Comments:**

i) ORR states in its Executive Summary that the Volume Incentive is to encourage Network Rail to accommodate unexpected demand for network capacity but that the Incentive does not specifically incentivise Network Rail to manage capacity efficiently in general. It is GB Railfreight’s view that, firstly, for Network Rail to accommodate unexpected demand, Network Rail must always manage its capacity efficiently, so to be ready for new traffic and that, secondly, the Access & Management Regulations (2005) mandate Network Rail to do this.

It isn't necessary for the Volume Incentive to be altered to incentivise Network Rail any further. All that is needed is Network Rail to actually implement all parts of the Access & Management Regulations (2005) as written, particularly where new freight services are involved. Examples of sections of the Regulations (but not limited to) that need to be heeded and enforced are:

a) Part 5, Regulation 20(1)(b) - **Scheduling & Co-ordination**: The infrastructure manager must, so far as possible, take account of all constraints on applicants, including the economic effect on their business.

b) Part 5, Regulation 23 (complete) - **Congested Infrastructure**: This whole legal regulation, for congested infrastructure, seems to be barely used at all. Proper enforcement of this regulation would greatly assist with how the capacity of a route is dealt. It would also directly lead into any Regulation 25 for a Capacity Enhancement Plan.

c) Part 5, Regulation 21(4) - **Ad-Hoc Requests**: The infrastructure manager, must, including in the case of congested infrastructure, undertake an evaluation of the need for reserve capacity to be kept available within the final working timetable to enable him to respond rapidly to foreseeable *ad hoc* requests for infrastructure capacity. As many routes have a requirement for ad-hoc capacity, for both passenger and freight, that often cannot be met, this regulation, along with that for “Congested Infrastructure”, is one that requires special attention.

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ii) GB Railfreight also questions what “unexpected demand” is. On many routes throughout the country, Network Rail should expect much of the “white space” in a timetable to be taken up over time. This is certainly borne out by many of the established Route Utilisation Strategies and, therefore, should not be unexpected. With that in mind, GB Railfreight questions why there needs to be a Volume Incentive.

iii) GB Railfreight in not clear where the, not unsubstantial, Volume Incentive payments to Network Rail go and what the money is used for, if anything. Little is known about this payment. If this surplus pot of money were to be used, for example, for specific capacity improvements associated with routes over which the extra volume has travelled, TOCs and FOCs would have a better feel for this charge and how it might be reviewed for CP5.

**Specific Questions in Annex D:**

**Q1:** Do you recognise the importance of efficient management of network capacity in driving improvements in value for money from the rail network? Do you recognise the role played by the Volume Incentive, if effective, in driving behaviours which contribute to more efficient capacity management? Is there more we could be doing, through the Volume Incentive or otherwise, to improve the development of information which would help to improve capacity management further and to inform the system operator role?

GB Railfreight recognises, absolutely, the importance of effective management of network capacity and believes this should be carried out, as a matter of course, by Network Rail. GB Railfreight does not believe that the current Volume Incentive has any influence at all in driving behaviours, at any level, in Network Rail. Many Network Rail personnel, who deal with capacity issues, don’t even know of its existence or its quantum.

By far the bigger driver of efficient capacity management is the proper implementation of all sections of the existing Access & Management Regulations (2005), but specifically the sections on Scheduling & Co-ordination, Congested Infrastructure and Ad-Hoc Requests as detailed above.

**Q2:** Do you recognise the important role of charges in providing information on costs and the uses of revenues and subsidy and in sending better signals for efficient provision and use of network capacity? Do you have any comments on the proposed scope, and timing, of the longer-term programme to develop charges as outlined above?

GB Railfreight recognises a relationship between charging and efficient provision and use of capacity. ORR states that its work on this subject is to identify scope for charges to send better signals for efficient provision and use of network capacity. GB Railfreight thinks this work both ways, with FOCs being able to benefit from a reduction in access charges for a particular service that has been pathed into the timetable in a most inefficient manner. This “penalty”, and the idea of it, should be used to incentivise Network Rail to manage a timetable, far better, and provide network-efficient, FOC-efficient good speed paths that don’t penalise FOCs with high fuel and driver costs.

**Q3:** Do you have any specific experiences of the effectiveness of the current Volume Incentive which it would be helpful to share? Can you provide specific examples of where the incentive does appear to have worked and where it has not? Why exactly do you think that the incentive is not fully effective at present?

GB Railfreight has absolutely no experience of the Volume Incentive at work, either in a positive or negative way. It has never been discussed, between Network Rail and FOCs and I believe it isn’t effective as no one knows about the charge, its incentive or quantum.

**Q4:** Do you agree with the range of design features which we have chosen to consider with the aim of improving the effectiveness of the incentive? Are there other changes you think we should consider making? If so, how would these changes improve the effectiveness of the incentive? Do you think that possible changes to the design and levels of the Volume Incentive have the potential to improve its effectiveness?
The range of design features is adequate. As stated in Question 2, GB Railfreight believes there should also be a downside element to the Volume Incentive, not only if Network Rail were not to grow traffic up to and over the agreed baseline, but also for poor capacity efficiency management in the production of a timetable. This scenario should always include the value of specific capacity to a train operator and, just as importantly, how the use of that capacity affects end-customers’ businesses.

To that end, all aspects of the Volume Incentive need to be fully understood and appreciated by all who make capacity allocation decisions. Without this knowledge and its influence, the incentive charge is wasted and the large amount of money flowing into Network Rail becomes just another charge.

It should be quite easy for FOCs to give Network Rail some high-level information on how poor use of capacity affects a FOC’s bottom line. For example, the poor management of capacity of the West Coast Main Line might result in “standard” freight paths being slower than might be the case. A journey time extension of 15 minutes, from one timetable to another, could necessitate additional train crew for a freight flow or, in some cases, lead to the operator not putting the traffic on rail at all. There are some really large numbers associated with good use of capacity and the mis-management of it can lead to instant reductions of turnover and profit for FOCs.

Q5-Q7: Incentive rate calculations and disaggregation over routes and TOCs/FOCs.

Although GB Railfreight doesn’t have an issue, in principle, with calculating rates at a route level, the answer here is to keep it simple and, most importantly non-discriminatory. If, as presently, more passenger services than freight are paying into the Volume Incentive coffers, individual Routes may be tempted to encourage more passenger services over freight trains, even if freight is below the agreed baseline level. Given that many freight services cross many routes, in the course of their journey, this could be quite difficult to disaggregate and administer for Network Rail, and just as cumbersome for train operating companies to understand and factor into their new business calculations.

The value of each service to be introduced on a route, be it a new passenger or freight train, will have a different value over each of the routes it travels and, again, to each specific operator, so true disaggregation, as suggested, will be complex and inaccurate. GB Railfreight believes this whole approach is too complex to work at this stage of PR13 process and suggests a simple review.

Q8: Do you agree, that, in principle, a downside could improve Network Rail’s responsiveness to unexpected demand for use of network capacity and improve its overall incentives, and ability, to improve efficiency in capacity management? Do you have views on the possible design of the downside mechanism?

GB Railfreight agrees that, in principle, a downside element could improve Network Rail’s responsiveness but also firmly believes that this needs to be closely aligned with the proper implementation of all sections of the existing Access & Management Regulations (2005). Network Rail doesn’t currently manage capacity efficiency with declarations of “congested infrastructure”, or any other bespoke mechanisms, so this may encourage it to do so.

Q9: Do you agree that we should continue to apply the Volume Incentive to all routes regardless of whether it is a “congested route”?

At this point in time, Network Rail has only declared three routes as “congested infrastructure”, with this now also seemingly incorrect, therefore GB Railfreight doesn’t agree with the proposal to only apply the incentive to congested routes. However, having now raised this issue, Network Rail ought to be far more pro-active in declaring routes as “congested infrastructure” and managing a project plan for each route. GB Railfreight would be content to see the Volume Incentive applied to all routes but would like to see the industry agree on how the this money is better apportioned in Network Rail and whether it can be used for real capacity improvements on the network.
Q10: Do you agree that we should continue to exclude ESI coal and spent nuclear fuel freight from the Volume Incentive? Should this still be done if the incentive is calculated at the route level?

Are Biomass services to be included within this ESI coal remit? Given there is about to be an ORR consultation on whether or not biomass is be included as a commodity subject to the CP5 Freight Only Charge, this needs to be clarified.

Q11: Do you agree that we should continue to allow Network Rail to benefit from all growth regardless of how it has arisen?

GB Railfreight believes that, if the Volume Incentive payments were to be spent on schemes for improving capacity on the network, there would be little issue from TOCs/FOCs as to whether or not ORR should continue to allow Network Rail to benefit from all growth. As it stands, GB Railfreight believes the current stance should continue, irrespective of how the growth has arisen. This is also the simplest way of administering the incentive.

Q12: Do you agree that we should continue with the present payment mechanism but promote its annual accounting at route level? You are invited to put forward alternative or additional proposals to improve the understanding of, and engagement with, the incentive, both in relation to how it is paid and accounted for and any other governance features.

GB Railfreight believes that, with so little time left, what is being discussed here is just too complex to reach a satisfactory conclusion at this stage of the PR13 process. For example, we need to be clear how, for national operators with new trains that run over a number of routes, how the Volume Incentive payment would be assigned and why, and whether or not there is a better way of doing it. This needs more discussion, especially as proposals for payment scenarios might lead to a payment to Network Rail of £124.7m. The present payment and accounting mechanisms are acceptable until more real discussion has occurred.

Q13: Do you agree that we continue to use broadly the existing approach to calculating incentive rates? What other approaches might be available and how would they improve the effectiveness of the Volume Incentive relative to the existing approach?

GB Railfreight believes that the existing approach should be used but, as mentioned previously, perhaps with a downside element.

Q14-15: Do you expect that the passenger incentive rates that we have proposed would drive significantly better capacity management on Network Rail’s part? If not, please explain what level of rates would be needed to be effective in changing Network Rail’s behaviour and why? We are interested in your view on an alternative higher proposal set out in Annex C.

GB Railfreight would like to think that such a large increase in the Volume Incentive, for both passenger and freight services, would definitely incentivise Network Rail to manage its capacity significantly better than at present. This proposal and the general incentive would, however, need to be explained in detail to all in Network Rail who deal with real time capacity allocation and full timetable production to be of any use. Currently, few people know its value and effect.

Yours sincerely,

Ian Kapur.
National Access Manager.