Responses to April 2022 consultation on ORR's PR23 review of Network Rail's access charges

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Response to ORR's further consultation on the PR23 review of Network Rail's access charges

This pro-forma is available to those that wish to use it to respond to our consultation. Other forms of response (e.g. letter format) are equally welcome.

Please send your response to pr23@orr.gov.uk by **1 July 2022**.

Please contact Will Chivers at ORR with any queries: Will.Chivers@orr.gov.uk.

About you

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**This information will not be published on our website.*

Chapter 2: Infrastructure cost charges

Question 2.1: Do you have any views on our proposal to maintain the existing market segmentation of open access services ('interurban' and 'other'), for the purposes of setting the open access ICC?

As outlined in our response to the initial ICC consultation for PR18, Arriva has accepted the principle of applying appropriate, cost-effective (minimal cost of implementation through a simple regime) markups to Open Access Operators (OAO). However, where the introduction of ICC is applied, we would like ORR assurance that OAO Access applications shall be seen favourably with reduced restrictions on network access given that the income from the ICC should be used to offset revenue abstraction calculations. It must also be applied following the undertaking of an appropriate market can bear test, which should not prevent a new or existing operator providing new services where they would be granted access and can cover the direct costs of the operation, i.e. Variable Usage Charges (VUC).

We think it is important that a complete suite of cost reflective and transparent Access Charges are still necessary into the post-GBR world in order to:

- Ensure visibility of cost drivers
- Allow the full cost of delivering different services be visible
- Ensuring visibility of a level playing field from a cost allocation perspective between GBR and non-GBR operations

Given the ICC and current market segmentation has been in place throughout CP6, we support maintaining the existing market segmentation. However, we do have some concerns over the existing definitions and additional work undertaken, which are outlined below:

The current market segmentation is based on station entries / exits, but the ICC is then applied on a flow basis i.e. between the 2 stations that meet the Interurban definition. Whilst this utilisation of entries / exits would be appropriate in some instances there is a risk that the entries / exits of a station represent the local commuter market with the number of journeys actually utilising the interurban service is significantly less – Leeds would be a good example of exceeding 15 million entries / exits but with a significant commuter passenger base travelling much shorter distances.

The analysis by Steer looks at 3 options (including the current definition) and considers the number of services that are profitable, marginally profitable and unprofitable that would be captured by each of the definitions.

In all 3 scenarios nearly 50% of services captured would be marginally profitable or unprofitable. This suggests that the existing market segmentation definitions could in fact limit new Open Access proposals or service expansion plans as the services involved could not bear the proposed ICC, if they were to meet the interurban definition but be unable to cover the ICC.

Another key issue with the assessment by Steer is the underlying data that has been used in order to consider the market segmentation and ability to bear. Whilst we appreciate Open Access data is limited given the small number of operators, the approach taken to consider all service groups on the network does raise some issues given the differences that exist between Franchised and Open Access services.

In general OA operators tend to operate outside of the peak with shorter trains than Franchised Operators. Whilst travel patterns appear to have changed significantly following the Covid-19 pandemic, there is still a large gap between peak and off peak pricing, this coupled with shorter train lengths (a Grand Central Class 180 has less than half the number of seats as an LNER Azuma) limits revenue earning potential on the same route, yet if the OA service met the interurban definition it would be subject to the same £ per train mile. One solution to this would be to consider the ICC as pence per vehicle mile which could better reflect the variability that may exist in operating surplus and be more reflective of an ability to bear the ICC.

It is recognised in Steers report that time of day and day of week remain important factors in influencing the profitability of a service and given this point was raised in the PR18 consultation by a number of consultees it is disappointing that this is still not considered fully and dealt with in the analysis. A key constraint detailed is the ability of industry data systems only being able to apply a charge at service group level, but given the scale, importance and potential impact of the ICC for new OAO's the analysis should consider this further and work arounds identified within the industry systems, for example utilising service codes at an individual train or flow level. It seems likely that consideration of day of week / time of day would lead to a better interurban definition which would capture less marginally profitable and unprofitable services.

Question 2.2: Do you have any views on the most appropriate approach to setting the open access ICC for the relevant market segment in CP7?

Any ICC must not be more expensive than any fixed access charge paid by a Franchised Operator.

Additionally, consideration should be given to the poor financial performance of Open Access Operators during the Covid pandemic and the ongoing reduction in passenger demand.

Open Access Operators received no DfT backed financial support throughout the Covid pandemic, and as such forward looking business cases will continue to take account of the impact for years to come. Levying a charge too high on OAO's that meet the interurban definition could dramatically impact on these business cases.

Question 2.3: Do you have any views on whether or not we should maintain relief from any increase in charges prompted by the open access ICC, for existing operators (as defined in PR18)?

Relief for existing open access operators must be retained.

Existing operators gained access to the Network under a regime which heavily restricted access with any rights granted having to pass The Not Primarily Abstractive Test.

Passing the test was achieved by providing new services to poorly served communities and seeking to develop those markets. Capacity was not and remains not freely available with Open Access operators having to 'fit' around other services.

Existing operators look for ways to continually develop the markets they serve, through increased service levels, investment in stations and additional station calls.

Should an existing operator meet the definition of interurban with an ICC imposed, there would be the potential for the operator to consider service reductions alongside alternative station calls which would likely make the ICC more bearable but result in a negative impact on passengers and communities served.

In addition to this, existing Operators have historically secured longer access contracts based on making investment either in rolling stock or infrastructure. Grand Central as part of its current Track Access Agreement has made significant investment at several stations across its routes, improving the passenger experience and providing facilities which would otherwise not have been provided. The market segmentation and ability to bear analysis does not consider the cost of this investment. If the ICC were to be imposed on an existing OAO it would likely mean the opportunity for direct investment would fall away with the funds effectively re-directed into Network Rail as opposed to identifying local improvements at smaller stations which would potentially otherwise remain neglected.

Question 2.4: Do you have any views on our proposal to maintain the existing market segmentation of freight services?

Maintaining the existing market segmentation seems sensible.

Question 2.5: Do you have any views on our proposal to continue to allow Network Rail to levy ICCs on freight services carrying iron ore, spent nuclear fuel and ESI biomass? Do you have any views on our proposal to remove the ICC on services carrying ESI coal, pending a further review later in PR23?

No comments.

Question 2.6: Do you have any views on the most appropriate approach to setting freight ICCs for relevant market segments in CP7?

No comments.

Chapter 3: Variable charges

Question 3.1: Do you have any views on how we should take account of new evidence in relation to VTISM, for the purposes of setting the VUC?

Any proposed changes need to be done in a timely manner to allow adequate evaluation and response by operators (specifically those operating on a commercial basis). The phasing in of any new Charges is also a key consideration so as to avoid cost shocks to certain operations.

Additionally, any changes to VUC's would need to be considered in setting the level of the ICC for Open Access Operators.

Question 3.2: Do you have any views on our proposal to review the VUC guidance for CP7 to allow a new VUC rate to be calculated for existing vehicle types that are downgraded to lower than HAW RAs, because Network Rail decides to remove HAW access rights?

We agree this is a sensible approach to take.

Question 3.3:

Do you have any views on our proposal to remove modelled consumption rates for new train services from the beginning of CP7?
We agree with removing the modelled consumption rates for new train services.

Chapter 4: Station charges

Question 4.1: Do you have any views on our proposed approach to calculating LTCs for CP7, including on our proposed classification of a large / complex station i.e. Option B?

The proposed approach seems sensible in that it should better demonstrate cost reflectivity at the stations identified in Option B. However, LTC proposed at stations not defined as large / complex will continue to lack transparency and retain the perceived imbalances within each category.

Operators have informed Network Rail through NR's own recent consultation, that the setting of LTC usually bears little relation to the outputs of Network Rail MRR activity actually delivered to the franchised station estate. Whilst we appreciate the increased administrative burden of rolling out the approach across all stations, greater engagement between NR and SFO's in setting the LTC at franchised stations would potentially help with cost reflectivity.

Question 4.2: Do you have any views on our proposed approach to setting LTCs for new stations in CP7 (and stations that have opened during CP6), such that the operational property element of their LTC is set at 10% of that for existing stations in the same route and station category for a fixed five-year period from the date of opening?

This approach improves on the current approach to charges for new stations.

Are there any other comments you would like to make?

We understand that the ICC is proposed to open up the Network to additional competition, and that the ICC is will be used in the Not Primarily abstractive test to reduce the level of net abstraction within the test.

This remains hugely important, however, Arriva would like to see further work undertaken on the appropriateness of the NPA test in its current form. There still remains no consideration of charges and contributions that OAO's make through operating a service which reduce the impact on the funds available to the secretary of state. For example, commission earned and station access charges.

OFFICE OF RAIL AND ROAD

Response to ORR's further consultation on the PR23 review of Network Rail's access charges

This pro-forma is available to those that wish to use it to respond to our consultation. Other forms of response (e.g. letter format) are equally welcome.

Please send your response to pr23@orr.gov.uk by **1 July 2022**.

Please contact Will Chivers at ORR with any queries: Will.Chivers@orr.gov.uk.

About you

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**This information will not be published on our website.*

Chapter 2: Infrastructure cost charges

Question 2.1: Do you have any views on our proposal to maintain the existing market segmentation of open access services ('interurban' and 'other'), for the purposes of setting the open access ICC?

DB Cargo as a Freight and Charter Passenger Operator is not directly impacted by this proposal. However, DB Cargo supports the proposal to maintain the existing market segmentation of Open Access services (as detailed in option 1 p.27 of the Technical Consultation – PR23 – Review of Network Rail's access charges)

Question 2.2: Do you have any views on the most appropriate approach to setting the open access ICC for the relevant market segment in CP7?

DB Cargo as a Freight and Charter Passenger Operator is not directly affected by this proposal and has no comment to make.

Question 2.3: Do you have any views on whether or not we should maintain relief from any increase in charges prompted by the open access ICC, for existing operators (as defined in PR18)?

DB Cargo as a Freight and Charter Passenger Operator is not directly affected by this proposal and has no comment to make.

Question 2.4: Do you have any views on our proposal to maintain the existing market segmentation of freight services?

DB Cargo supports the ORR's assessment and preferred approach in proposing to maintain the existing market segmentation of freight services. This provides a consistent approach which will allay fears of uncertainty in the rail freight market. Further segmentation of the market would add complexity for customers.

Question 2.5: Do you have any views on our proposal to continue to allow Network Rail to levy ICCs on freight services carrying iron ore, spent nuclear fuel and ESI biomass? Do you have any views on our proposal to remove the ICC on services carrying ESI coal, pending a further review later in PR23?

DB Cargo accepts the proposal to allow Network Rail to continue to apply an ICC on services carrying Iron Ore, Spent Nuclear Fuel and ESI Biomass. It is critical that such traffic can bear a mark-up without resulting in modal shift away from rail or artificially depressing these market segments. ESI Coal volumes experienced rapid decline in line with forecasts to a very low level. It is noted that revenues raised from an ICC on this commodity would not justify the ongoing administrative burden associated with levying the charge. DB Cargo supports the proposal to remove the ICC on services carrying ESI Coal.

Question 2.6: Do you have any views on the most appropriate approach to setting freight ICCs for relevant market segments in CP7?

DB Cargo would wish to see consistency in the approach to setting Freight ICCs in CP7. This would likely mean ICCs would be further reduced in CP7, assuming ORR proposals to retain the existing VUC phasing-in policy are accepted. The application of Freight ICCs or increase in the existing ICC level of charges would be contrary to delivering Governmental objectives to grow rail freight and decarbonise the economy.

Chapter 3: Variable charges

Question 3.1: Do you have any views on how we should take account of new evidence in relation to VTISM, for the purposes of setting the VUC?

DB Cargo supports the view that using a revised version of VTISM to underpin the setting of VUC rates would create significant uncertainty in the rail freight sector. DB

Cargo would wish to understand any additional inputs (costs) that are envisaged and the rationale for inclusion. It would appear increasingly unlikely that time will allow a technically complex stakeholder consultation to enable new evidence in relation to VTISM to influence setting of VUC rates for CP7.

Question 3.2: Do you have any views on our proposal to review the VUC guidance for CP7 to allow a new VUC rate to be calculated for existing vehicle types that are downgraded to lower than HAW RAs, because Network Rail decides to remove HAW access rights?

DB Cargo strongly supports a change to the VUC Guidance to reflect Route Availability for Heavy Axle Weight (HAW). This is to take account of a scenario where Network Rail were to remove Heavy Axle Weight (HAW) capability during a Control Period. The intent is not to incentivise the Infrastructure Manager to withdraw HAW Access Rights. It is vital to Freight Operators that the Infrastructure Manager is funded to maintain Route Availability and dispensations at no worse than "steady state" throughout CP7.

Question 3.3:

Do you have any views on our proposal to remove modelled consumption rates for new train services from the beginning of CP7?

DB Cargo supports the removal of modelled consumption rates for new rolling stock. However, it is not convinced that removal where new services are introduced will produce the right outcomes. Where rolling stock is re-deployed or re-purposed, there is a need to ensure an unnecessary barrier to convert business to rail is not created for non-metered rolling stock. Where Freight Operators have the option of utilising electric traction on new services, a punitive default charging regime for non-metered traction risks incentivising diesel operation.

Chapter 4: Station charges

Question 4.1: Do you have any views on our proposed approach to calculating LTCs for CP7, including on our proposed classification of a large / complex station i.e. Option B?

Freight and Charter Passenger Operators are not required to contribute to the Long Term Charge at the stations they use given their marginal usage. The proposal outlined in Option B to calculate the Long Term Charge for large/complex franchised stations based on specific expenditure forecasts appears to DB Cargo to have merit. It is noted that administration of this proposal should be relatively straight-forward.

Question 4.2: Do you have any views on our proposed approach to setting LTCs for new stations in CP7 (and stations that have opened during CP6), such that the operational property element of their LTC is set at 10% of that for existing stations in the same route and station category for a fixed five-year period from the date of opening?

DB Cargo supports the approach outlined and would not wish to see a financial incentive for deferring delivery. Hence a fixed five-year period from date of opening will result in the charge straddling control periods in the majority of cases and resulting in certainty.

Are there any other comments you would like to make?

DB Cargo hopes that the comments made in this response to the ORR's further consultation document are helpful. It looks forward to continuing to work with ORR and the rest of the industry to take forward any changes ORR decides to make to Network Rail's access charges.

Department for Transport

Dan Moore
[redacted]

Web Site: www.dft.gov.uk

27 July 2022

Dear Sir/Madam,

Department for Transport's response to the Office of Rail and Road's consultations on Schedules 4 and 8 and access charges

I am writing on behalf of the Department for Transport (DfT) in response to the Office of Rail and Road's (ORR) publication on 14 April of its proposed approach to Schedules 4 and 8 of the track access agreement and infrastructure access charges in Control Period 7 (CP7), as part of Periodic Review 2023 (PR23). I am grateful for the opportunity to respond and look forward to continuing the positive working relationship with the ORR throughout the PR23 process to help secure a railway for better works for passengers, freight customers and taxpayers.

Introduction

PR23 and the ORR consultations come at a time of significant change on our railways as the consultations acknowledge. The Williams-Shapps Plan for Rail (the Plan for Rail) and the creation of Great British Railways provides a unique opportunity to deliver positive reform, creating a better, simpler and more efficient railway. We strongly consider that PR23 is an important element of delivering that reform and supporting the financial sustainability of the railway into the future.

The ORR's decisions on Schedules 4 and 8 and infrastructure access charges will have a direct bearing on this. While the Plan for Rail is in the process of being implemented with important steps still to be taken, we consider that it is vital that the PR23 process, including the key decisions around charges and incentives, are consistent with and support implementation of the Plan for Rail, so that its benefits are maximised.

Overall response

DfT is generally supportive of the general proposals put forward by the ORR in response to the consultations. In line with our engagement with the ORR to date on PR23, we support the implementation via PR23 of measures, initiatives and amendments that promote the principles of accountability, flexibility, simplicity, fairness and transparency,

delivered through practical and effective arrangements that support effective collaboration and efficiency across the sector.
However, we do consider that there are certain important areas where it remains important that we continue to work more closely together, most particularly:

- With respect to the arrangements for **Schedule 8**, we consider it vital to ensure there is sufficient flexibility for Great British Railways and operators contracted to it to facilitate an effective regime into the future.
- With respect to infrastructure cost charges, continuing to develop an appropriate approach to **infrastructure cost charges for open access operators**, so that they are fair and reasonable for taxpayers.

We discuss these issues below, alongside broader observations.

Schedules 4 and 8 consultation

Schedule 4

We agree with the ORR's conclusions regarding the preferred option for Schedule 4, which we consider to be a practical approach. This includes the position regarding appropriate decisions being made before the start of CP7, subject to the exceptions discussed in the document.

Schedule 8

Ensuring strong and effective arrangements to incentivise performance are a critical element of securing a well-functioning rail industry. We strongly support the ORR's approach as set out in the consultation to take a proportionate approach, including the areas that the ORR has indicated (in table 3.1) of the consultation that it is not minded to take forward. We equally agree that there is merit in updating the evidence base underpinning the calibration of the freight regime to reflect market developments; it will clearly be key for the ORR to continue to work closely with the rail freight industry to do so.

With respect to the coverage of Schedule 8 more generally, we note the ORR's minded-to conclusions about Schedule 8 continuing to apply to all operators. We strongly agree that this is necessary for operators such as freight, open access and devolved operators, providing them with critical certainty.

We welcome the ORR's recognition of the links between rail transformation and the Schedule 8 regime. The Government is strongly committed to ensuring that contracts between Great British Railways and operators include strong performance incentives; and considers that ensuring a coherent and effective regime is essential to delivering for passengers and taxpayers. We have noted the ORR's conclusions that appropriate amendments to Regulation 16 and Schedule 3 of the 2016 Access and Management Regulations could mean that Schedule 8 payments may no longer need to be made between GBR and its operators.

The recently published consultation on the legislation required to implement the Plan for Rail highlighted that the Government was exploring whether changes to the 2016 Access and Management Regulations are required to ensure that the full benefits of Great British Railways acting as the guiding mind are realised. As part of this work, and subject to results of the consultation and usual clearance processes, we are considering if minor and technical changes are necessary to Regulation 16 and Schedule 3 to enable the guiding mind function and smooth transfer of responsibilities from DfT to Great British Railways. If so these should be made in the forthcoming Transport Act.

We note the ORR's deadline of Autumn 2022 for alternative arrangements, which we welcome. We would propose continuing to work closely with the ORR on this issue to explore alternatives in the period before autumn.

Access charges consultation

Overall

DfT considers that an effective charging regime, which is transparent and well understood by all parties, is an important means of promoting efficiency and cost reflectiveness and certainty for operators. We broadly welcome the ORR's proposals in the consultation.

This includes the emphasis on proportionate steps to improve and simplify the regime, particularly:

- The removal of the partial fleet metering charge; the loss incentive mechanism for EC4T; and the FTAC wash up mechanism.
- Working with Network Rail to improve published guidance on station charges and explanatory notes on station long term charges.

We also very much welcome the following steps which increase certainty and predictability for operators:

- Maintaining the existing phasing in of Variable Usage Charge increases for freight and charter – subject to further review later in PR23. This reflects the Government's strong support for supporting the rail freight industry to maximise its economic and environmental benefits, and for the unique journey opportunities provided by charter services.
- Retain the freight Infrastructure Cost Charge for iron ore, spend nuclear fuel, and ESI biomass, but remove it for coal (subject to review later in PR23).
- Retaining EUAC in its current form.
- Maintaining the existing cost categories and track damage formulae that are used to calculate VUC rates.

Furthermore, we consider it is important, consistent with the representations from freight operators, that the regime permits Variable Usage Charges to be modified during CP7 if Network Rail withdraws heavy axle weight capability on the network.

Moreover, we agree with the proposed approach to station charges and the indexation of inflation by reference to CPI.

Infrastructure Cost Charges for Open access

As set out in the Plan for Rail, the Government welcomes the potential for new open access services to be explored where spare capacity exists to make best use of the network and grow new markets for rail.

In doing so, to ensure sustainability it remains critical to reflect the implications of open access operators on taxpayers, which is particularly relevant given the current pressure on the finances of the railway. In that regard, we welcomed the steps that the ORR took to introduce an Infrastructure Cost Charge for new inter-urban Open Access Operators in PR18, although we did not consider that it went far enough to sustainably address the implications for taxpayers of new services.

In considering the consultation, we have noted the ORR's updated market-can-bear analysis and the core conclusions of the Steer analysis (as per paragraph 2.45 of the consultation document) and we have noted the three options for changes included in the consultation.

We are unclear however as to the ORR's basis for adopting Option 1 from the material presented with respect to market segmentation. We note the uncertainty around passenger services recovery, but equally note that the conclusions of the Periodic Review will have an impact on the industry until 2029; the uncertainty would suggest that this decision would be more appropriate if taken at later stage of the Periodic Review when the position on passenger recovery may be better understood. We would welcome further engagement on the detailed underpinning on this issue. In particular, we considered that Option 2 was more likely to provide a sustainable basis for more effectively balancing the requirements of open access operators and taxpayers; indeed, it was not clear to us the reason why the regime would not reflect the greater proportion of services that are estimated to be highly profitable.

It is important to highlight that under any regime we fully acknowledge the need for appropriate protection for existing operators (as defined in PR18) not covered by an Infrastructure Cost Charge and consider that the ORR's approach to this issue as reflected in PR18 – most particularly with respect to "significant variations" was a reasonable one. For any new open access operators, we do have considerable concerns about the basis for the phase-in arrangement: while we fully accept that some degree of phasing-in arrangements would be appropriate to enable a period for new operators to develop their business, we do not consider that an appropriate balance is struck in the current phase-in approach: operators would not pay any charge in the first two years, and not pay the full charge until Year 5. We consider that a pathway to full payment of the charge in Year 4 would be more appropriate.[1]

With respect to the level of the Infrastructure Cost charge, we note the ORR's initial estimate with respect to the likely level of Infrastructure Cost charge, noting the importance of the market can bear analysis in ultimately setting that charge.

At this stage, the DfT would benefit from further discussions on the Infrastructure Cost Charge, but considers that it would be premature at this stage to settle on option 1 given the long-term effects. We consider that securing a robust and sustainable position, which enables open access operators to play an appropriate role, whilst mitigating taxpayer impacts is important – and we consider that the position would merit further development in discussion with all parties.

Concluding remarks

We are grateful to the ORR for the opportunity to comment and to the overall approach to charges and incentives reflected in the consultation document. We very much look

[1] For example, this could lead to a 0% charge in Year 1, 25% in Year 2, 50% in Year 3 and 100% in Year 4.

forward to continuing to work closely with ORR to develop this position during the remainder of PR23.

Yours faithfully,

Dan Moore

Response to ORR's further consultation on the PR23 review of Network Rail's access charges

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Please send your response to pr23@orr.gov.uk by **1 July 2022**.

Please contact Will Chivers at ORR with any queries: Will.Chivers@orr.gov.uk.

About you

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**This information will not be published on our website.*

Chapter 2: Infrastructure cost charges

Question 2.1: Do you have any views on our proposal to maintain the existing market segmentation of open access services ('interurban' and 'other'), for the purposes of setting the open access ICC?

We support this approach, as we have yet to fully see the full effectiveness of the existing segmentation policy and the ICC. The ICC was only introduced in PR18 and the balance between the segments has been greatly impacted by the COVID-19 pandemic over the last 2 years, with probable long-term effects on the individual segments. A more thorough review to "fixed" track access charging and segmented market charging is probably best left until the introduction of GBR.

Question 2.2: Do you have any views on the most appropriate approach to setting the open access ICC for the relevant market segment in CP7?

Setting the level of open access ICC will be challenging, given the effect of COVID-19 on the passenger rail business. Until demand settles down, by time of day as well as day of week, the level of operating surplus during CP7 is likely to be different to that assumed for CP6 and almost certainly will be depressed. Therefore, we see the level of ICC either being frozen or reduced for CP7, if the current method is employed. However, it is hard to see at this stage an alternative approach that would not introduce perversities.

Question 2.3: Do you have any views on whether or not we should maintain relief from any increase in charges prompted by the open access ICC, for existing operators (as defined in PR18)?

Given the COVID-19 effects and the fact that their existing terms were based on their original business plan assumptions, we support the maintenance of the existing relief. If relief was not to be maintained, we would expect that the term of their Track Access Agreements to be automatically extended to bring their relevant business plan assumptions back to those agreed by the ORR at time of authorisation.

Question 2.4: Do you have any views on our proposal to maintain the existing market segmentation of freight services?

n/a

Question 2.5: Do you have any views on our proposal to continue to allow Network Rail to levy ICCs on freight services carrying iron ore, spent nuclear fuel and ESI biomass? Do you have any views on our proposal to remove the ICC on services carrying ESI coal, pending a further review later in PR23?

n/a

Question 2.6: Do you have any views on the most appropriate approach to setting freight ICCs for relevant market segments in CP7?

n/a

Chapter 3: Variable charges

Question 3.1: Do you have any views on how we should take account of new evidence in relation to VTISM, for the purposes of setting the VUC?

FirstGroup welcomes the ORR statement that you are not intending to consider changes to the VTISM in PR23. VUC is an area where late changes to a significant TOC variable cost item causes considerable financial uncertainty. A more thorough review “in-CP” is clearly the best way forward. For Open Access operators we see a linkage between VUC and the ICC and, if VUC changes, we propose that it should trigger a review of the ICC.

Question 3.2: Do you have any views on our proposal to review the VUC guidance for CP7 to allow a new VUC rate to be calculated for existing vehicle types that are downgraded to lower than HAW RAs, because Network Rail decides to remove HAW access rights?

n/a

Question 3.3:

Do you have any views on our proposal to remove modelled consumption rates for new train services from the beginning of CP7?

This is consistent with the wish to see more accurate charging and we support the proposal to remove modelled consumption rates for new services.

Chapter 4: Station charges

Question 4.1: Do you have any views on our proposed approach to calculating LTCs for CP7, including on our proposed classification of a large / complex station i.e. Option B?

Option B seems to be the best option for the immediate future, pending the outcome of Network Rail’s station reclassification exercise.

Question 4.2: Do you have any views on our proposed approach to setting LTCs for new stations in CP7 (and stations that have opened during CP6), such that the operational property element of their LTC is set at 10% of that for existing stations in the same route and station category for a fixed five-year period from the date of opening?

This is a difficult area, for the reasons outlined in the document and to avoid arbitrary charging effects, this would seem to be the best approach.

Are there any other comments you would like to make?

n/a

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Please send your response to pr23@orr.gov.uk by **1 July 2022**.

Please contact Will Chivers at ORR with any queries: Will.Chivers@orr.gov.uk.

About you

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**This information will not be published on our website.*

Chapter 2: Infrastructure cost charges

Question 2.1: Do you have any views on our proposal to maintain the existing market segmentation of open access services ('interurban' and 'other'), for the purposes of setting the open access ICC?

n/a

Question 2.2: Do you have any views on the most appropriate approach to setting the open access ICC for the relevant market segment in CP7?

n/a

Question 2.3: Do you have any views on whether or not we should maintain relief from any increase in charges prompted by the open access ICC, for existing operators (as defined in PR18)?

n/a

Question 2.4: Do you have any views on our proposal to maintain the existing market segmentation of freight services?

Freightliner supports the ORR's proposal to maintain the existing market segmentation of freight services. In response to the Autumn 2021 consultation, we raised concerns about the suggestion that markets could be further defined into sub-segments. In our response we identified a number of market-driven, operational and administrative challenges in further segmenting the market and explained how those challenges would create risks for the sector and add complexity for customers. Freightliner therefore welcomes the ORR's consideration of these factors and its proposal to maintain existing market segmentation.

Question 2.5: Do you have any views on our proposal to continue to allow Network Rail to levy ICCs on freight services carrying iron ore, spent nuclear fuel and ESI biomass? Do you have any views on our proposal to remove the ICC on services carrying ESI coal, pending a further review later in PR23?

Freightliner does not currently operate in the markets identified for ICCs and so does not have visibility of the market economics required to understand its ability to bear a mark-up. However, we note that these are all existing commodity groups where ICCs are applied and so, in the absence of any market changes, the case to apply ICCs has already been established. It does remain important that any decision to apply ICCs on these commodities should not be made on the basis of historic investment, leading to this traffic now being perceived as captive. To do so would risk undermining future investment.

Freightliner notes that ORR is considering removing the ICC on ESI coal in CP7 based on 'proportionality grounds', considering the reduction in volumes and expected further reduction, over the next control period. Given how few commodities can bear a mark-up, as a result of high levels of substitutability across rail commodities, the freight ICCs make only a small contribution to Network Rail income, raising the question over whether 'proportionality' should be more widely considered.

Freightliner does agree that limiting burden is important and welcomes the ORR's consideration of this matter. We also support the ORR's proposal to keep this under review before the Final Determination, noting the current changes within the energy sector.

Question 2.6: Do you have any views on the most appropriate approach to setting freight ICCs for relevant market segments in CP7?

Freightliner would support the same approach taken in PR18 to be applied for PR23 for CP7. Should ORR decide to maintain the phasing-in of the VUC in CP7, the CP6 approach to setting freight ICCs would result in the ICCs rates falling as the VUC rates increase. That would maintain overall cost recovery at the same level and provide some simplicity and predictability for customers.

Chapter 3: Variable charges

Question 3.1: Do you have any views on how we should take account of new evidence in relation to VTISM, for the purposes of setting the VUC?

Freightliner does not support the proposal that would see changes to the methodology for setting the VUC. Freightliner has not been privy to this work, and we note the outputs will not be known until the end of the year or start of 2023. This gives a very limited opportunity to scrutinise the outputs with any diligence, given the proximity to the draft Determination and will only exacerbate the uncertainty that the periodic review process creates for customers.

We note that ORR is minded to consider how the new Network Rail model could influence the proportion of track-related costs recovered through the VUC, but not to revise the vertical track damage formula used to allocate costs at a vehicle level, based on the model. This position appears to be reflect the condensed timescales, which Freightliner is also concerned will not give sufficient time for adequate scrutiny. Freightliner would not support any element of this being implemented without sufficient industry engagement and opportunity to challenge. This timescales would not appear to allow this and we would suggest that any new model would be more suitably introduced at the next periodic review.

The ORR recognises that the decision to change the proportion of track-related costs recovered through the VUC "*carries implications for the VUC rates paid by operators in CP7*". For freight operators ORR notes that the phasing-in approach of VUC shelters freight operators from changes to the VUC methodology. Freightliner would dispute that. By the end of CP7 the caps will have been unwound (assuming the phasing-in policy remains) for all commodities and charges will reflect 100% of direct costs. However, even before the end of CP7 many commodities (including intermodal) will not have VUC rates capped and will therefore already pay 100% of their direct costs. This means that the capping arrangements that ORR says will "*mitigate the impact of any changes*" will not actually be in place and therefore there is no mitigation should a new methodology result in an increase in the VUC rates.

While Freightliner has not had any visibility of this work, there is a strong over-riding supposition in the consultation that outputs of the new VUC methodology will result in increased VUC rates. The ORR discuss mitigations and reflect on the fact that the VUC for most passenger operators is paid by funders. Freightliner is unclear why the ORR view the change in methodology as driving an increase in VUC rates, particularly in light of the prescriptive methodology outlined in the implementing act on costs directly incurred. This implementing act was designed to standardise the methodology for capturing the costs and avoid erratic swings in calculations.

While there will be value in seeing the outputs of the new Network Rail analysis and understanding the drivers of costs is important, Freightliner considers it too late in the process to start changing the methodology. To do so would create unnecessary uncertainty in the process. With so much wider uncertainty currently across the industry, including the unknown structural changes of reform as well as the current industrial action, adding in this additional uncertainty would be unnecessarily damaging to the sector. We urge ORR to reconsider any proposal to change VUC methodology so late in the process and without involvement from the operators.

Question 3.2: Do you have any views on our proposal to review the VUC guidance for CP7 to allow a new VUC rate to be calculated for existing vehicle types that are downgraded to lower than HAW RAs, because Network Rail decides to remove HAW access rights?

Freightliner supports the ORR proposal to allow new VUC rates to apply on infrastructure where Network Rail have reduced Route Availability capability. Given that the unit rates are modelled on the basis of HAW traffic running, where lines are downgraded then the unit rate will be higher than would otherwise be the case was the model to be based on non-HAW traffic. Freightliner considers that this proposal should avoid over-recovery from Network Rail in the event of Route Availability downgrades and may also act to incentivise Network Rail to avoid downgrading infrastructure to lower HAW Route Availability.

While this proposal is a pragmatic approach to addressing the track access charging impact of HAW Route Availability downgrades, it should be noted that any downgrades will have a catastrophic impact for the rail freight sector. The loss in volumes that would result with routes being downgraded would significantly impact on the efficiency of rail and the competitiveness of the sector and therefore needs to be avoided.

Question 3.3:

Do you have any views on our proposal to remove modelled consumption rates for new train services from the beginning of CP7?

Freightliner notes the ORR's previous proposal around establishing a ring-fenced fund to support the installation of On-Train Meters (OTM) has been reconsidered. Instead it is suggested that funders may potentially take this forward. Freightliner supports this decision and looks forward to discussions with funders over the fitment of OTMs and the wider incentive package to support low-carbon traction.

Freightliner does not support the proposal to remove modelled consumption for new train services. While we would understand the rationale for removing modelled consumption rates for new rolling stock, removing such rates for new services could restrict the ability to operate existing freight traction on new routes. Freight operators respond to changes in customer demand by introducing new services at short-notice. It is less likely that those new services will be operated by electric traction if they are subject to default rates. This risks pricing off lower-carbon traction in favour of diesel traction. This cannot be a good outcome for customers, the industry and the environment.

Freightliner would suggest that the removal of modelled consumption rates should be limited to new rolling stock in CP7. In future, where Government take forward incentives around fitment of OTMs, then wider abolition of modelled consumption rates would be more appropriate. To remove the modelled consumption rates prior to the establishment of the support mechanisms to fit OTMs would be premature.

Chapter 4: Station charges

Question 4.1: Do you have any views on our proposed approach to calculating LTCs for CP7, including on our proposed classification of a large / complex station i.e. Option B?

n/a

Question 4.2: Do you have any views on our proposed approach to setting LTCs for new stations in CP7 (and stations that have opened during CP6), such that the operational property element of their LTC is set at 10% of that for existing stations in the same route and station category for a fixed five-year period from the date of opening?

n/a

Are there any other comments you would like to make?

Freightliner notes that the ORR proposes to retain the PR18 approach to phasing-in the VUC to the end of CP7. As we noted in response to the 2022 Autumn consultation, such an approach risks being inconsistent with supporting rail freight growth and delivering on the 2050 net zero greenhouse gas legislative commitment. As documented in the previous response, other countries have sought to address these challenges with policies to reduce freight track access charges.

Freightliner does welcome the ORR commitment to reconsider the approach to unwinding the caps towards the end of the periodic review when the overall level of charges faced by operators can be considered in the round. While it would be preferable to ‘pause’ any further phasing-in to ensure alignment with structural changes in the industry, is important that this option is at least retained, to provide a mechanism to address any negative changes in the overall level of charges and incentives.

Freightliner is grateful that the ORR has sought to close down options quickly to date within the periodic review process and this is reflected in this consultation. With so much uncertainty for the rail freight sector and their customers currently, including the structural changes of rail reform and the current challenges of Network Rail industrial action, it is important that this periodic review process does not add to that uncertainty. To support the sector, we ask ORR to continue to expedite decisions and also ask that efforts are made by Network Rail to provide a draft price list for CP7 as early in the process as possible. It is in the quest of minimising uncertainty at what is a challenging time for the sector, that we ask ORR to reconsider the implementation of any new methodology in calculating the VUC, as outlined above.

Response to ORR's further consultation on the PR23 review of Network Rail's access charges

This pro-forma is available to those that wish to use it to respond to our consultation. Other forms of response (e.g. letter format) are equally welcome.

Please send your response to pr23@orr.gov.uk by **1 July 2022**.

Please contact Will Chivers at ORR with any queries: Will.Chivers@orr.gov.uk.

About you

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**This information will not be published on our website.*

Chapter 2: Infrastructure cost charges

Question 2.1: Do you have any views on our proposal to maintain the existing market segmentation of open access services ('interurban' and 'other'), for the purposes of setting the open access ICC?

GB Railfreight has no strong views on this. Certainly, with the mixed levels of passenger traffic across parts of the country, it does not seem the right time to be creating uncertainty in this market. The danger is that changes to open access segmentation may put off new entrants to the open access passenger market.

Question 2.2: Do you have any views on the most appropriate approach to setting the open access ICC for the relevant market segment in CP7?

Again, due care ought to be taken to ensure that any changes to the levels of open access ICC do not deter new entrants coming into the market and there being a detrimental effect in encouraging more competition in this sector.

Question 2.3: Do you have any views on whether or not we should maintain relief from any increase in charges prompted by the open access ICC, for existing operators (as defined in PR18)?

It is GB Railfreight's view that, as a starting point for CP7, relief should be maintained, as stated, as business cases for existing open access services (and complete sectors of trains), would have been based on a previous access policy. There also needs to be some clarity on what "significant variations" means, with respect to existing services.

Question 2.4: Do you have any views on our proposal to maintain the existing market segmentation of freight services?

The vitally important environmental considerations of moving more freight by rail in the UK needs to be at the forefront of any freight charging regime, along with simplicity of its structure. In that respect, as little change as possible to costs is what is needed, except with respect to ESI coal which is in real decline (see Section 2.5). Any additional segmentation would increase the complexity of a freight charging regime, both for FOCs and their end-customers, with the likelihood of turning them off rail as a viable and predictable means of transport.

There is much 3rd party investment in the UK railfreight operation, including new terminals, expansion of existing terminals and their rail systems, funded gauge enhancements (e.g. Immingham-Doncaster W10) and other items and there needs to be stability in place for the confidence for this investment to continue. Now, more than ever, 3rd party investing needs to be actively encouraged and scene set for that to take place.

Question 2.5: Do you have any views on our proposal to continue to allow Network Rail to levy ICCs on freight services carrying iron ore, spent nuclear fuel and ESI biomass? Do you have any views on our proposal to remove the ICC on services carrying ESI coal, pending a further review later in PR23?

In the grand scheme of Network Rail revenues, freight ICCs are a relatively small amount however their application can have a real effect on our ability to attract or grow the railfreight market in its various sectors.

With regard to the levying of ICCs on biomass traffic, GBRf believes that, with the Freight Specific Charge currently at an additional £0.9275/kgtm and set to increase to an additional £1.5459/kgtm in 2023/24, it is definitely too early to draw any definite conclusions on how the CP6 Freight Specific Charge will have affected that market. Until that is fully understood, there can be no reliable conclusions formed with the biomass market.

GBRf supports the proposal to remove the ICC for ESI coal. ESI coal still is a very small market segment and is still in decline. Yes, there are some more coal services running into Ratcliffe power station than there were 12 months ago, but that's still an extremely small baseline - 1 power station nationally.

GBRf agrees it is administratively intensive given the market segment and that there is no long-term (or even medium term) future coal for power generation in the UK.

Question 2.6: Do you have any views on the most appropriate approach to setting freight ICCs for relevant market segments in CP7?

GB Railfreight is pleased to see that ORR is actively taking into account Government's objectives for modal shift and the environmental net-zero targets in this PR23 review. It is absolutely right that all available steps are taken to reflect the environmental considerations of moving more freight by rail in the UK – this needs to be at the heart of any approach in setting freight charges in CP7.

Given that the variable usage charges (VUC) for some commodities are still increasing up to the end of CP6, and might potentially do so again in CP7, GBRf believes that to avoid uncertainties and stabilities in charges affecting the railfreight market, and to encourage modal switch from road to rail in line with Government's objectives, the most appropriate approach for CP7 charging would be as per CP6 charging regime.

Any potentially significant increases in freight charging for CP7 (and possibly again with GBR reform) would spook the market and cause uncertainty with our current and new customers over modal shift and be counter to the Government's objectives of decarbonising the economy. Such increases would also mean rail freight's ability to compete for new business would be at a disadvantage compared to road transport where there are not significant charges applying.

Simplicity and "no surprises" are what is currently needed here.

Chapter 3: Variable charges

Question 3.1: Do you have any views on how we should take account of new evidence in relation to VTISM, for the purposes of setting the VUC?

Stability and predictability are key in ensuring the delivery of a more environmentally friendly and sustainable rail freight market as set out in the Williams-Shapps plan. The subject of new evidence for VTISM would mean a whole new way of looking at the VUC charging regime for track-related wear-and-tear costs. This would take quite some time and also potentially introduce a whole new quantum of charges which, at this stage of the PR23 process, would be too late in the day in our view.

There would also definitely be uncertainty and instability introduced into the market in the short-term, should a methodology change go ahead at this point. GBRf believes there would need to be serious levels of scrutiny on both sides for there to be confidence in any proposed changes to the VUC charging model. GBRf has not yet had sight of any output of the Serco review and we would need to do so and absolutely understand all aspects of it before commenting further on its suitability.

GB Railfreight has previously raised concerns about the understanding of costs associated with vertical track damage, including a better understanding of the effects very high-speed services.

The consultation document states that VUC rates are already capped below fully cost-reflective rates however this is not the case for all rail freight commodities, and especially the buoyant Intermodal market. Coupled with this, there is the potential for all caps to be removed in CP7 should ORR decide to continue any further phasing in of VUC charges. All of this causes great concern to our freight customers, especially those engaging with us for additional and new traffics.

Question 3.2: Do you have any views on our proposal to review the VUC guidance for CP7 to allow a new VUC rate to be calculated for existing vehicle types that are downgraded to lower than HAW RAs, because Network Rail decides to remove HAW access rights?

GBRf supports the proposal to allow what would be the correct VUC rate for existing vehicles carrying a lower payload (i.e. vehicles actually running a lower Route Availability). In principle, it is only correct that FOCs pay purely the VUC charges for what is actually being carried in its wagons rather than what it listed for an HAW load. This new proposal would ensure that FOCs do not overpay for their trainloads, which can only be the right thing to do.

Any increase in administrative costs associated with this change is more than likely to be outweighed by all the benefits for FOCs and their end-customers in moving more freight off road and onto rail.

Although GBRf agrees with the ORR proposal in this consultation, GBRf would far rather that Network Rail be fully funded to maintain the Network to regularly cater for Heavy Axle Load freight services, without restriction in speed or quantum, so that currently carried bulk materials (in the main) can continue to be carried by rail, and that new rail freight flows can also be accommodated in the network.

Question 3.3:

Do you have any views on our proposal to remove modelled consumption rates for new train services from the beginning of CP7?

The main driver in anything to do with electric traction and its consumption must be to make it simple, ensure it is cost-effective and encourage greater use of electrically hauled services across the whole network.

GB Railfreight is already investing in new bi-mode electric/diesel locomotives and absolutely supports the use of electric traction and an accurate charging regime for its use, be it new engines or other types of existing rolling stock.

GB Railfreight is wary of any proposal to mandate only metered rolling stock on new services by using “default rate” charging.

FOCs do need the ability to respond to short-notice commercial opportunities using the most appropriate traction however this proposal might lead to counter-intuitive operational working such as using diesel traction under the wires as the charging regime might be simpler, which would be very unfortunate.

As previously mentioned in GBRf's initial response to the first PR23 access charging consultation, GBRf believes a small ring-fenced fund be provided to help support the introduction of the on-train monitoring equipment to help ensure any gaps are plugged.

Chapter 4: Station charges

Question 4.1: Do you have any views on our proposed approach to calculating LTCs for CP7, including on our proposed classification of a large / complex station i.e. Option B?

GB Railfreight has no comments to make on this question.

Question 4.2: Do you have any views on our proposed approach to setting LTCs for new stations in CP7 (and stations that have opened during CP6), such that the operational property element of their LTC is set at 10% of that for existing stations in the same route and station category for a fixed five-year period from the date of opening?

GB Railfreight has no comments to make on this question.

Are there any other comments you would like to make?

More now than ever, GB Railfreight believes there needs to be stability and predictability in the railfreight market going forward into CP7 and beyond. This is not least to ensure our end-customers keep their confidence in rail as a viable, reliable methos of transporting their goods and they continue to provide 3rd party investment into terminals, assets and other areas such as network enhancements.

There is an awareness with our customers that Great British Railways might well transform the rules of engagement (access contracts, network capacity, protections etc.) regarding rail freight and, for the likelihood of 3rd party investment to continue, there must be stability in how this part of the industry goes forward.

Response to ORR's further consultation on the PR23 review of Network Rail's access charges

This pro-forma is available to those that wish to use it to respond to our consultation. Other forms of response (e.g. letter format) are equally welcome.

Please send your response to pr23@orr.gov.uk by **1 July 2022**.

Please contact Will Chivers at ORR with any queries: Will.Chivers@orr.gov.uk.

About you

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**This information will not be published on our website.*

Chapter 2: Infrastructure cost charges

Question 2.1: Do you have any views on our proposal to maintain the existing market segmentation of open access services ('interurban' and 'other'), for the purposes of setting the open access ICC?

No comment

Question 2.2: Do you have any views on the most appropriate approach to setting the open access ICC for the relevant market segment in CP7?

No comment

Question 2.3: Do you have any views on whether or not we should maintain relief from any increase in charges prompted by the open access ICC, for existing operators (as defined in PR18)?

No comment

Question 2.4: Do you have any views on our proposal to maintain the existing market segmentation of freight services?

No comment

Question 2.5: Do you have any views on our proposal to continue to allow Network Rail to levy ICCs on freight services carrying iron ore, spent nuclear fuel and ESI biomass? Do you have any views on our proposal to remove the ICC on services carrying ESI coal, pending a further review later in PR23?

No comment

Question 2.6: Do you have any views on the most appropriate approach to setting freight ICCs for relevant market segments in CP7?

No comment

Chapter 3: Variable charges

Question 3.1: Do you have any views on how we should take account of new evidence in relation to VTISM, for the purposes of setting the VUC?

We agree with the approach of waiting for the outcome of the review by Serco and RSSB and revisiting this in CP7.

Question 3.2: Do you have any views on our proposal to review the VUC guidance for CP7 to allow a new VUC rate to be calculated for existing vehicle types that are downgraded to lower than HAW RAs, because Network Rail decides to remove HAW access rights?

No comment

Question 3.3:

Do you have any views on our proposal to remove modelled consumption rates for new train services from the beginning of CP7?
We agree with this in principle. All GTR's current fleet is metered so if we were to introduce a new service then if it was not already fitted with metering there would be a plan to install metering as part of its introduction. We agree in that we have not seen any evidence to suggest that the accuracy of the evidence from our energy meters is an issue.

Chapter 4: Station charges

Question 4.1: Do you have any views on our proposed approach to calculating LTCs for CP7, including on our proposed classification of a large / complex station i.e. Option B?

We do support more transparency in how the LTC is calculated and the distinction between large/complex stations and the distortions that arise. Therefore, Option B is supported ensuring that the largest stations are removed from the route level forecasts for LTCs at franchised stations.

Question 4.2: Do you have any views on our proposed approach to setting LTCs for new stations in CP7 (and stations that have opened during CP6), such that the operational property element of their LTC is set at 10% of that for existing stations in the same route and station category for a fixed five-year period from the date of opening?

We agree with this proposal with the fixing for a five year period supported and cannot see from the consultation that this rise to over recovery by Network Rail. On that basis we agree with this approach.

Are there any other comments you would like to make?

ORR PR23 Charges Review

Open Access implications

Grand Union Trains welcomes the opportunity to respond to the Office of Rail and Road's (ORR) consultation into Access charging, in particular the Infrastructure Cost Charge (ICC). We are responding to this consultation as an aspirant passenger train operator with experience of how the application of the current ICC policy impacts on our business plans.

We accept the need for open access passenger operators to make a meaningful contribution to wider network costs, so we accept the principle of an ICC in appropriate circumstances. This response is about the size and application of the ICC. This is a critical issue which will determine whether open access continues as a small but important part of the emerging rail offering across Britain or not. In this context it is important to note that ORR has several statutory duties as defined in the Railway Act (1993) and subsequently amended which are relevant to open access passenger train operation. These include:

(b) to promote the use of the railway network in Great Britain for the carriage of passengers and goods, and the development of that railway network, to the greatest extent that it considers economically practicable;

(d) to promote competition in the provision of railway services for the benefit of users of railway services;

(g) to enable persons providing railway services to plan the future of their businesses with a reasonable degree of assurance.

Our response to this consultation will reference these duties including the proposed changes to 'promote competition' as outlined in the Williams/Shapps Plan for Rail Consultation which seeks to challenge the ORR's independence.

It is clear that it is UK government policy to facilitate a greater level of competition both through franchising and open access. Section 19 of the Secretary of State's Guidance to the Office of Rail and Road dated July 2017 is clear on this point:

"*The Secretary of State considers that passengers benefit from competition through the franchising process. He is also supportive of open access in particular circumstances where these do not significantly impact on affordability or the value for money from public investment. This is likely to be on those routes which are not already well served by the franchising system and not on densely used commuter routes. He considers, however, that a pre-condition for an increase in open access is that all operators make a fair contribution to the costs of the network. He therefore encourages ORR to continue with its proposals to reform track access charges,* *recognising that this is likely to be only one of the steps necessary to facilitate a greater level of open access competition".*

The benefits of that approach are ably demonstrated on the ECML with its three open access providers, where recovery from the pandemic on the LDHS flows are significantly in advance of recovery levels on routes where there is no competition.

Previous Consultations

Because this was a wholly new charge for CP6 the previous (PR18) consultations on this issue had to be made on an economics based study. We engaged strongly in the consultation at that time with reservations about the level and scope of the ICC.

Since then, we have worked up proposals to secure two new open access services to link South and West Wales and Central and Southwest Scotland to London, as well as considering how it might be possible to create direct links between South Wales and Scotland. and other non-London flows Our experience with these applications has informed our response.

Evidence Base

There is now evidence as to how the original concept is working in practise, so it is disappointing that the only 'evidence' offered by ORR is using an abstract economic analysis to test 'What the market can bear' is a further economics study produced by Steer, but basically rerunning the previous work and not unexpectedly arriving at the same conclusions.

The implications of the PR18 decision on new open access operations

The decision by an aspirant operator to develop a case for a new open access service and to apply for a track access contract is not taken lightly. The costs of preparing and supporting the application and to provide the information to meet ORR's tests are considerable.

An aspirant operator needs to have confidence in the assessment process – as recognised by ORR's statutory duty (g) "*to enable persons providing railway services to plan the future of their businesses with a reasonable degree of assurance*".

ORR has developed tests, most notable the 'not primarily abstractive' test, and also other checks such as to whether there is capacity available and potential impacts on performance. These have evolved and the tests have developed their own 'caselaw' with previous decisions acting as precedent for future checks. This is reasonable as open access continues to develop and the decision criteria needs to evolve to reflect the changing market.

The approval of First Group's London – Edinburgh 'Lumo' service in direct competition with the incumbent franchise operator which offers little in the way of new geographic links, indicated that head to head competition was now acceptable to ORR providing other tests were met.

The PR18 decision on the ICC made it very clear that direct competition on major flows (generally between large cities and London) was acceptable. The decision was the selection of a simple UK wide £4 per train mile rate. To be able to afford to pay a £4 a train mile ICC, large numbers of passengers need to be carried, and the main routes on which there are sufficient travellers in the market are those to and from London, where fares also generally carry a premium over inter-urban fares.

We consider that it currently constrains open access into a very small, London centric window which may not be the best offer to the public and which, as history has shown, renders competition on non-London routes extremely difficult to introduce.

As an example, in the not too distant past, many cross country services carried passengers long distances such as between the north east and the south west. The ticket costs for these long distance journeys are now prohibitive, as the commercial focus has shifted to more intermediate journeys on these long-distance services. Some competitive pressure is required to claw back those longer journeys to rail from more carbon intensive modes, while linking major towns and cities with fast and affordable direct services. But as an example, a direct service linking the two UK capitals outside London, Cardiff and Edinburgh, would attract the current ICC even if services did not call elsewhere (Based on 2019 figures), which would render any open access service commercially unviable.

The imposition of an ICC on many non-London flows makes the business case extremely difficult, and to encourage innovation, we are looking to the ORR to give itself some discretion during this control period on possible proposed new services that do not include London. While the 'what the market can bear' test could be seen to be offering that protection, as the decisions are based on modelled assumptions it can be theory, not practicality, that drives the decision making process. Grand Union would like further discussions with the ORR on this particular issue.

Our response to your specific questions are listed below:

Option Choice Option 1 status vs Option 2 or 3

Question 2.1: Do you have any views on our proposal to maintain the existing market segmentation of open access services ('interurban' and 'other'), for the purposes of setting the open access ICC?

Answer

We note that in Para 2.48 that you have not sought to fundamentally revisit the approach taken in PR18. We are disappointed as this approach has not yet brought forward a single new open access service and respectfully suggest that the PR18 decisions have not promoted any competition in the provision of railway services for the benefit of users despite the express ORR expectation that it would.

However, having taken that decision you have further compounded the problem by clearly stating that you 'intend' to adopt Option 1 which is essentially the same as the current PR18 arrangement. We fundamentally disagree with your statement that "*the existing definition continues to broadly identify those interurban services which are likely to be able to bear an ICC*". The significant flaw in the Steer analysis is not to consider train size or flows in connection with a flat rate £4 a train mile. Their analysis covers a wide range of London and not-London inter-urban flows. They consider costs and what drives costs including identifying costs driven by train miles and vehicle miles. But at no point do they assess the size of the train (vehicles/train), yet this is a fundamental issue if the ICC is the be charged on a train mile basis.

Para 3.63 was quite clear – the highest net revenues were generally on services that either start or end in London. Chapter 4 then identifies with a questionable linkage between the highly profitable services and being able to pay an ICC.

What it shows is that under all revenue scenarios for all options there is a large proportion of services which cannot support a significant ICC because of the poor profitability.

We have analysed Fixed Track Access Charges paid by mainly long distance operators using published data to establish the current rates. The two predominantly big train long distance operators LNER and Avanti West Coast pay £4.08 and £2.87 per train mile over the 5 year control period. The two predominantly short train longer distance operators TPE and CrossCountry pay £2.54 and £2.56 per train mile.

The two non-London operators TPE and Cross Country are remarkably similar in their fixed costs per train mile.

All operators are in a similar range on fixed track access cost per vehicle mile ranging around £0.45/£0.52 with Avanti WC being lower, reflecting the high vehicle mileage, and East Midlands higher, reflecting the smaller trains on their services.

Our view backed by that analysis is that whilst a number of London based flows may well be able to support an ICC of £4 a train mile, non-London flows cannot. This is backed by our own business analysis, looking for viable open access opportunities.

Taking this in a UK Government policy context the flat rate across the whole network as proposed appears at odds with the governments' 'Levelling up' agenda as the non-London flows are unlikely to be able to benefit from the development of innovative new flows because of the high level of the flat rate ICC. Option 3 would deliver those outcomes, but if the ORR continues with Option 1 we would welcome the inclusion of ORR discretion in PR23 to see what, if any, effect it has on open access applications.

We strongly disagree with your conclusions in para 2.54. Option 1 (the status quo) has delivered very little to date and in our experience will continue to be an extremely challenging regime in which open access operators can develop. We strongly disagree with the statement that "*the existing definition continues to broadly identify interurban services which are likely to be able to bear an ICC*". It does not do that now and it will not improve in the future.

In particular, we see little scope for non-London interurban flows to be developed as open access operations even where there is little direct competition with existing DfT specified operations.

We consider that the unwillingness to move against your overall approach to PR23 is an unnecessary constraint given the very small number of likely operations which may emerge.

Option 3 is more likely to encourage the development of viable open access operation and encourage wider competition in line with the ORR's statutory duties.

In practise we suspect that there is little prospect of open access competing for bigger commuter markets other than as a result of calling patterns driven by other market needs. We would suggest that Option 3 is likely to be the simplest for operators to understand.

ICC

Question 2.2: Do you have any views on the most appropriate approach to setting the open access ICC for the relevant market segment in CP7?

Answer

In our answer to Question 2.1 we have explained that the single network wide £4 a train mile rate makes operation of non-London interurban flows unviable. Our own internal business development, which is flow specific, suggests that payment of any ICC can be challenging on these flows. The Steer paper does not analyse the geographic location of the flows that cannot support paying any ICC other than indication to/from London flows are more likely to be able to do so.

We had argued at the PR18 consultation for ORR to allow themselves some discretion, which was rejected then but we hope will be considered for CP7.

We are clear in our views:

- That non-London interurban flows should not be subject to ICC, covered by choosing Option 3 as the base (See Question 2.1) – or at least should be subject to ORR discretion.
- However, if Option 1 is chosen then a differential rate of ICC should be considered to reflect the smaller markets and smaller train size on a case by case basis.

This would be in line with the revisions to the Treasury Green Book to assist with 'Levelling Up'.

Question 2.3: Do you have any views on whether or not we should retain relief from any increase in charges prompted by the open access ICC, for existing operators (as defined in PR18)?

Answer

Grand Union has no strong views on the current position but the ORR should be mindful of the fact that current open access operators received little support during the pandemic (apart from staff furlough) and that they must be allowed to plan their business with a degree of confidence. We would suggest any change should focus on PR28.

In summary

The ICC charging regime and the decision criteria that ORR use to decide whether open access operators are allowed to run on the network send very strong messages to aspirant open access operators. These potential operators make risk based investment decisions as to whether to apply for track access rights to run new services.

ORR runs the considerable risk of suppressing further open access operation so preventing competition on the network as a result of an inappropriate ICC and contradictory decision criteria.

This is manifesting itself in two ways:

- A high ICC charge which is preventing open access operators developing viable Business Cases for non-London operations

- A high ICC on potential services to/from London which requires a high volume operation which may then run counter to what ORR considers to be an acceptable level of modelled abstraction from DfT specified services. These two direct consequences of the current proposal are at odds with ORR's Section 4 (d) 'to promote competition in the provision of railway services for the benefit of users of railway services'. They are also at odds with the SoS's Guidance to ORR if the proposed action prevents further open access operation developing.

Response to ORR's further consultation on the PR23 review of Network Rail's access charges

This pro-forma is available to those that wish to use it to respond to our consultation. Other forms of response (e.g. letter format) are equally welcome.

Please send your response to pr23@orr.gov.uk by **1 July 2022**.

Please contact Will Chivers at ORR with any queries: Will.Chivers@orr.gov.uk.

About you

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Email*: [redacted]

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**This information will not be published on our website.*

Chapter 2: Infrastructure cost charges

Question 2.1: Do you have any views on our proposal to maintain the existing market segmentation of open access services ('interurban' and 'other'), for the purposes of setting the open access ICC?

HEOC supports the maintenance of the existing market segmentation of Open Access services.

Question 2.2: Do you have any views on the most appropriate approach to setting the open access ICC for the relevant market segment in CP7?

At the current time the HEOC operation falls outside the open access ICC. While this is the case, HEOC has a neutral position on these changes.

Question 2.3: Do you have any views on whether or not we should maintain relief from any increase in charges prompted by the open access ICC, for existing operators (as defined in PR18)?

Given the challenging operating environment, HEOC are supportive of any initiative that offers relief from increases in charges.

Question 2.4: Do you have any views on our proposal to maintain the existing market segmentation of freight services?

HEOC has a neutral position on this proposal

Question 2.5: Do you have any views on our proposal to continue to allow Network Rail to levy ICCs on freight services carrying iron ore, spent nuclear fuel and ESI biomass? Do you have any views on our proposal to remove the ICC on services carrying ESI coal, pending a further review later in PR23?

HEOC has a neutral position on this proposal

Question 2.6: Do you have any views on the most appropriate approach to setting freight ICCs for relevant market segments in CP7?

HEOC has a neutral position on this proposal

Chapter 3: Variable charges

Question 3.1: Do you have any views on how we should take account of new evidence in relation to VTISM, for the purposes of setting the VUC?

HEOC has a neutral position on this proposal

Question 3.2: Do you have any views on our proposal to review the VUC guidance for CP7 to allow a new VUC rate to be calculated for existing vehicle types that are downgraded to lower than HAW RAs, because Network Rail decides to remove HAW access rights?

HEOC has a neutral position on this proposal

Question 3.3:

Do you have any views on our proposal to remove modelled consumption rates for new train services from the beginning of CP7?
HEOC has a neutral position on this proposal

Chapter 4: Station charges

Question 4.1: Do you have any views on our proposed approach to calculating LTCs for CP7, including on our proposed classification of a large / complex station i.e. Option B?

HEOC has a neutral position on this proposal

Question 4.2: Do you have any views on our proposed approach to setting LTCs for new stations in CP7 (and stations that have opened during CP6), such that the operational property element of their LTC is set at 10% of that for existing stations in the same route and station category for a fixed five-year period from the date of opening?

HEOC supports this proposal.

Are there any other comments you would like to make?

N/A

Response to ORR's further consultation on the PR23 review of Network Rail's access charges

This pro-forma is available to those that wish to use it to respond to our consultation. Other forms of response (e.g. letter format) are equally welcome.

Please send your response to pr23@orr.gov.uk by **1 July 2022**.

Please contact Will Chivers at ORR with any queries: Will.Chivers@orr.gov.uk.

About you

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Job title: Rail Development Advisor

Organisation: Merseytravel

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Telephone number*: [redacted]

**This information will not be published on our website.*

Chapter 2: Infrastructure cost charges

Question 2.1: Do you have any views on our proposal to maintain the existing market segmentation of open access services ('interurban' and 'other'), for the purposes of setting the open access ICC?

Merseytravel is in general agreement that for reasons given in the consultation, regarding the uncertainty within the industry, including the Williams Shapps Rail Plan seeing the creation of GBR, that there should be no change to the current track access charging market segmentation arrangements.

Merseytravel is unique in that the Merseyrail network concession we manage with Merseyrail Electrics Ltd has remained a commercial operation throughout Covid.

This contract will remain in place until July 2028 and so retaining the current track access charging arrangements will avoid uncertainty and disruption to the contract arrangements.

Question 2.2: Do you have any views on the most appropriate approach to setting the open access ICC for the relevant market segment in CP7?

The approach proposed is based upon what operators can afford to pay for track access and their “ability to bear”. In reality the current arrangement for most operators is that they are having all their costs, including track access costs, paid for direct by the DfT and so this methodology is not relevant.

The more relevant issue is as detailed in 2.4 of the consultation, in that the actual track charges train operators pay is lower than the overall fixed costs. This is because Network Rail recovers a large proportion of its fixed costs through network grant payments from DfT.

What is unclear from the consultation is what proportion of these overall costs an operator should pay.

When looking at national budgets Network Rail receives approx 40% of its income from track and station charges to train operators, but the majority 60% of their funding comes direct from DfT grant.

This has in the past been subject to considerable change, the example being the change in track access charges from CP5 to CP6. In our case for Merseyrail Electrics the total cost for track access over the 5 year period of CP5 was £18.6M. Following the final determination of the budgets for CP6 this was increased to £80.7M over the 5 year period, an increase of over £62M.

Therefore given that DfT are now directly funding train operators as well as Network Rail we need to ensure that the same percentage funding allocation split (40/60) continues from CP6 into CP7 to maintain consistency.

In addition we also note that recent increases in inflation is significantly impacting on costs, an example being the recent 7.1% increase in Network Project Management staff costs for rail projects from April 2022.

We therefore do not support the proposal that track access costs should simply be increased by inflation.

The revised costs should take into account the DfT objectives for the Rail Industry to reduce costs over the period of CP7and we would expect national Network Rail savings targets to feed through into reductions to current Track Access Charges.

Question 2.3: Do you have any views on whether or not we should maintain relief from any increase in charges prompted by the open access ICC, for existing operators (as defined in PR18)?

Merseytravel would not support the principle that Open Access Operators are given relief from paying track access charges.

In the case of the West Coast Main Line we know the infrastructure is crowded yet Open Access Operators are allowed to bid for paths, with which seems counter-productive. There are other associated impacts such as Open Access operators increasing congestion resulting in the potential for further delay, with impacts to other train services that are paying track access charges.

However we accept that establishing what the market will bear for open access, especially in current financially challenging financial situation for operators, will be difficult to assess.

In general our aspiration is to see the rail network expand and give more services to passengers. Locally we are considering use of our battery powered trains to take over services currently operated by diesel trains to provide more frequent services. We recognise that this has the potential to see track access charges increase.

We would expect that any increases to track access charges would reflect only the marginal additional costs for running increased services, so as not to price any additional services off the network.

In summary whilst we would support additional Open Access services onto the network, they should not be given relief from track access charges but should contribute a fair share to the costs of the infrastructure they use.

Question 2.4: Do you have any views on our proposal to maintain the existing market segmentation of freight services?

We see no reason to change the current segmentation arrangements

Question 2.5: Do you have any views on our proposal to continue to allow Network Rail to levy ICCs on freight services carrying iron ore, spent nuclear fuel and ESI biomass? Do you have any views on our proposal to remove the ICC on services carrying ESI coal, pending a further review later in PR23?

The recent cost increases for energy would indicate that significant profits are being made in the energy industry and therefore it would seem reasonable to continue to levy track access charges (ICC’s) on this freight sector.

Question 2.6: Do you have any views on the most appropriate approach to setting freight ICCs for relevant market segments in CP7?

The costs should be related to what the market can bear and given profits currently being made in energy sector the opportunity exists to review and increase the charges based upon what the industry can afford.

More generally Merseytravel support the increase in freight traffic to remove HGV's off the highway and support the de-carbonisation agenda.

The need to transfer freight to rail operation is clear and any charging system should be supportive of such a move.

Therefore freight track access charges should be set at affordable rates so as not to become a barrier to an increase in freight traffic.

Chapter 3: Variable charges

Question 3.1: Do you have any views on how we should take account of new evidence in relation to VTISM, for the purposes of setting the VUC?

We understand the reason for the application of variable usage charge to allow network rail to recover costs they incur as a result of small changes of traffic.

It would be useful however to establish a benchmark for what is classed as a small increase in traffic.

To simplify arrangements we would propose that there should be no change to track access charges unless the additional service results in a material impact on track charges.

This would support freight operators who are seeking to develop new services and would allow them to be innovative without exposure to additional cost.

As these new services become established and are found to be sustainable and profitable then more of these new services would operate which would incur VAC's , This would enable growth in freight traffic in a more sustainable transition.

Question 3.2: Do you have any views on our proposal to review the VUC guidance for CP7 to allow a new VUC rate to be calculated for existing vehicle types that are downgraded to lower than HAW RAs, because Network Rail decides to remove HAW access rights?

The situation where Network Rail decides to downgrade High Axle Weight route acceptance could have a major impact of what freight operators would be able use on the route, requiring more trains and wagons to carry the same amount of freight.

In such circumstance, outside the control of the freight operator it would appear reasonable that the Track Access charge should be reviewed and reduced.

In any event any downgrading of the axle weight on a line or route must not prevent existing passenger services operating nor prevent future maintenance of the line by restricting engineering trains from accessing the line.

It is expected that each case will need to be considered in isolation as the factors in each case will be different.

However it would be useful for Network Rail to publish the outcome of such re-calculations, so as to be open and transparent and to ensure a level of consistency in the approach for each case.

Question 3.3:

Do you have any views on our proposal to remove modelled consumption rates for new train services from the beginning of CP7?

Merseytravel are introducing a new fleet of trains Class 777 which will have built in meters for measuring the electrical consumption of the trains. These new trains also incorporate the latest regenerative breaking technology. This means that the trains generate electric power during breaking, which feeds power back into the electrical network.

We are also procuring a number of battery powered Class 777 trains which have the capability to further reduce the electrical demand required.

The charging for electric traction should therefore recognise not only energy used by the train but also energy returned to the network by way for the regenerative braking systems of trains.

We would therefore support the proposal as detailed in 3.73 for trains fitted with electric metering to be given a discount to their electric charges to reflect the investment made by Merseytravel in the fitting of meters to the trains. We would also support further discounts being given for trains with regenerative braking which feeds power into the electrical supply network.

In respect of older stock whilst there is a benefit to fitting meters there will also be a cost in carrying out the necessary modifications. In this case we would accept that the use of modelled consumption should remain until such times as the fleet is renewed of fully modified.

The discount to the electric costs above should therefore be set at such a level so as to act as an incentive to fit not only electric meters, that monitor electric power consumption, but discounts should also be given to incentivise the fitment of regenerative braking technology systems and battery technologies which actually reduce energy consumption.

Chapter 4: Station charges

Question 4.1: Do you have any views on our proposed approach to calculating LTCs for CP7, including on our proposed classification of a large / complex station i.e. Option B?

Yes we would accept the proposal that the LTC would the average over a route, excluding the larger stations as per Option B.

On the Merseyrail network we have several major underground stations which have considerable infrastructure liabilities in terms of tunnels, lifts, escalators, fire alarm systems ect, which means they would need to be excluded from any calculation.

Question 4.2: Do you have any views on our proposed approach to setting LTCs for new stations in CP7 (and stations that have opened during CP6), such that the operational property element of their LTC is set at 10% of that for existing stations in the same route and station category for a fixed five-year period from the date of opening?

Again we would accept this would be a reasonable approach for simple 2 platform stations which make up the majority of stations on a line of route.

Where more complex stations are being developed such as the proposed new station Liverpool Baltic this will need to be calculated separately. The station whilst only consisting of 2 platforms each approx. 130m long, is in a deep cutting and is expected to be classed as sub-surface. The current proposal for the required vertical access at feasibility stage design (GRIP Stage 3) includes for 6 escalators and 4 lifts.

Are there any other comments you would like to make?

None

Response to ORR's further consultation on the PR23 review of Network Rail's access charges

This pro-forma is available to those that wish to use it to respond to our consultation. Other forms of response (e.g. letter format) are equally welcome.

Please send your response to pr23@orr.gov.uk by **1 July 2022**.

Please contact Will Chivers at ORR with any queries: Will.Chivers@orr.gov.uk.

About you

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Telephone number*: [redacted]

**This information will not be published on our website.*

Chapter 2: Infrastructure cost charges

Question 2.1: Do you have any views on our proposal to maintain the existing market segmentation of open access services ('interurban' and 'other'), for the purposes of setting the open access ICC?

No specific comment

Question 2.2: Do you have any views on the most appropriate approach to setting the open access ICC for the relevant market segment in CP7?

No specific comment

Question 2.3: Do you have any views on whether or not we should maintain relief from any increase in charges prompted by the open access ICC, for existing operators (as defined in PR18)?

No specific comment

Question 2.4: Do you have any views on our proposal to maintain the existing market segmentation of freight services?

No specific comment

Question 2.5: Do you have any views on our proposal to continue to allow Network Rail to levy ICCs on freight services carrying iron ore, spent nuclear fuel and ESI biomass? Do you have any views on our proposal to remove the ICC on services carrying ESI coal, pending a further review later in PR23?

No specific comment

Question 2.6: Do you have any views on the most appropriate approach to setting freight ICCs for relevant market segments in CP7?

No specific comment

Chapter 3: Variable charges

Question 3.1: Do you have any views on how we should take account of new evidence in relation to VTISM, for the purposes of setting the VUC?

No specific comment

Question 3.2: Do you have any views on our proposal to review the VUC guidance for CP7 to allow a new VUC rate to be calculated for existing vehicle types that are downgraded to lower than HAW RAs, because Network Rail decides to remove HAW access rights?

No specific comment

Question 3.3:

Do you have any views on our proposal to remove modelled consumption rates for new train services from the beginning of CP7?
No specific comment

Chapter 4: Station charges

Question 4.1: Do you have any views on our proposed approach to calculating LTCs for CP7, including on our proposed classification of a large / complex station i.e. Option B?

We would like to see this expanded to a greater sample of stations to enable benchmarking etc to take place.

Question 4.2: Do you have any views on our proposed approach to setting LTCs for new stations in CP7 (and stations that have opened during CP6), such that the operational property element of their LTC is set at 10% of that for existing stations in the same route and station category for a fixed five-year period from the date of opening?

No specific comment

Are there any other comments you would like to make?

No specific comment

Caitlin Scarlett
[redacted]

Will Godfrey
Director of Economics, Finance and Markets
Office of Rail and Road
1 July 2022

Dear Will

Network Rail's response to ORR's further proposals to its technical consultation on the PR23 review of access charges

1. This letter sets out Network Rail's response to the Office of Rail and Road's (ORR's) 14 April further proposals to its consultation on the "Review of Network Rail's access charges" for Control Period 7 (CP7). We have shared and discussed our response with GBRTT who have confirmed that it aligns to their view on reforms.
2. As summarised in the main body of this letter, we have no significant objections to ORR's overall proposals. Appendix A to this letter responds to ORR's specific consultation questions and includes some comments on the detail of ORR's proposals, which we consider that ORR should factor into its 2023 Periodic Review (PR23) charges conclusions document in autumn 2022.
3. We consider below:
   a) the overall approach to the PR23 review of charges;
   b) Infrastructure Cost Charges;
   c) the Variable Usage Charge;
   d) the Traction Electricity Charge; and
   e) station charges.

Overall approach to PR23 review of charges

4. We agree with ORR's overall approach to its review of charges and acknowledge that in current circumstances it remains appropriate for ORR to:
   a) maintain consistency with existing industry legislation in conducting its review of charges; and
   b) make only limited, incremental changes to the charging framework for CP7, avoiding any more fundamental changes.
5. Following the publication of "Williams-Shapps Plan for Rail Legislation Consultation", which details the legislative reforms sought to facilitate rail reform in the UK, it is important to note that both primary and secondary legislative changes could allow for the revisiting of both the cost allocation and charging frameworks. A key reason to adjust arrangements could be the change in financial relationships once GBR is acting as both TOC contracting authority and infrastructure manager. Once GBR is established, recognising the new industry structure, a further review of these frameworks with the ORR may be necessary.

Infrastructure Cost Charges

6. We agree that given the significant work undertaken at PR18, no major changes should be made to the methodology for allocating traffic-avoidable fixed costs to operators, although we are considering one minor change to the detail of the current methodology which is outlined in appendix B. We will consult on this in our autumn consultation on the recalibration of access charges.

7. We support:

   a) the continuation of Fixed Track Access Charges (FTACs) for passenger services contracted by Department for Transport (DfT), Transport Scotland (TS), and other rail authorities in England and Wales;

   b) ORR's plans to make FTAC arrangements more transparent; and

   c) the removal of the FTAC wash-up mechanism for CP7.

8. We consider that all operators should contribute to the recovery of the long-run traffic-avoidable fixed costs that they cause on the network, where they are able to do so. We therefore support the retention of Infrastructure Cost Charges for freight and open access operators, subject to appropriately updated market can bear tests.

Variable Usage Charge

9. We support ORR's proposed retention of its existing VUC phasing-in policy for freight and charter operators as determined at PR18. The policy will enable rates to be cost reflective by the end of CP7. We recognise concerns raised by stakeholders in the freight sector in relation to increasing costs versus the government's environmental and rail freight growth objectives. However, we agree with ORR that:

   a) the existing legal framework requires that VUCs should reflect the cost to Network Rail of providing access to the network and does not provide for this to be amended to account for environmental and other government objectives; and

   b) this requirement implies that any phasing-in caps should be time limited - in that context, we note that under ORR's proposals, the period over which VUC charges are being phased-in to reach cost reflective levels, will be 15 years in total (start of CP5 to end of CP7).

10. We note that ORR has advised that it will keep the policy under review until after the PR23 recalibration, which concludes in 2023, and review its position should the recalibration exercise result in significant changes in VUC rates. At this stage, we think it unlikely that the recalibration will result in significant changes.

11. We support the continued development of the Vehicle Track Interaction Strategic Model (VTISM) working with the Rail Safety and Standards Board (RSSB) and other stakeholders as required. However, we agree with ORR's view that the timescales for the revisions to VTISM would now come too late in the PR23 process to update the formula used to allocate vertical track damage between vehicle types, with insufficient time to facilitate stakeholder consultations and implement the revisions.

Traction Electricity Charge

12. We support ORR's proposals on the removal of:

    a) new modelled consumption rates for new rolling stock;

    b) the Partial Fleet Metering option; and

c) the Loss Incentive Mechanism.

Station charges

13. We support the proposed move to base station-specific LTCs on station size as opposed to managed status, and the proposal to apply the existing new stations operational property discount for a period of five years, regardless of the date of opening.

14. We have received a positive response from all passenger operators on our proposal for a simplified approach to the calculation of the managed station Qualifying Expenditure (QX) Charge whereby both the fixed and management fee elements of existing CP6 QX charges would be indexed by CPI and implemented without additional recalibration in CP7. We made a formal proposal to this effect under the terms of the Independent Station Access Conditions on 30th June 2022.

* * *

If you would like to discuss the content of this letter in more detail, or any of the associated appendices, please contact myself or my colleague Nick Prag ([redacted]).

Yours sincerely

Caitlin Scarlett

Head of Regulatory Economics

Appendix A – Responses to ORR's specific consultation questions

Chapter 1: Introduction and overall approach

Adapting to industry change

1.1 We note that the nature and timing of future legislation to support new industry access and charging arrangements remain uncertain, and acknowledge that in that context it remains appropriate for ORR to:

a) maintain consistency with existing industry legislation in conducting its review of charges; and

b) make only limited, incremental changes to the charging framework for CP7, avoiding any more fundamental changes.

1.2 Following the publication of "Williams-Shapps Plan for Rail Legislation Consultation", which details the legislative reforms sought to facilitate rail reform in the UK, it is important to note that both primary and secondary legislative changes could allow for the revisiting of both the cost allocation and charging frameworks. One key reason to adjust arrangements could be the change in financial relationships once GBR is acting as both TOC contracting authority and infrastructure manager. Once GBR is established, recognising the new industry structure, a further review of these frameworks with the ORR may be necessary.

1.3 We agree with ORR that under any future system, GBR will continue to require an effective charging framework for non GBR-contracted operators, including freight, open access and charter operators, as well as passenger operators contracted by other rail authorities. It will therefore be necessary to demonstrate that costs are allocated impartially between GBR-contracted operators and non GBR-contracted operators to ensure charges are levied on a fair and non-discriminatory basis.

1.4 Notwithstanding point 1.3, calculating the infrastructure costs, for example those associated with wear and tear, is extremely important irrespective of whether that is translated in full or part into access charges. Understanding these costs can help drive an integrated whole system cost modelling approach informing and improving decision making across the business. Therefore, many of the issues being considered by ORR are likely to continue to be relevant in a reformed industry structure.

Environmental factors

1.5 We are committed to serving Great Britain with the cleanest, greenest mass transport. We want to put passengers first, help passengers and freight users to make green choices, support local communities and be a good neighbour.

1.6 However, we acknowledge that our ability to use the charging framework to advance these aims is constrained by the existing legal framework, which requires that our charges for costs that are 'directly incurred' should only reflect our infrastructure costs. This means that, under current legislation, we are not permitted to provide discounts or levy increases above or below that level, to reflect any environmental benefits of either rail generally, or of electric traction as compared to diesel traction.

1.7 We agree with ORR that on-train metering of traction current is an area where more can be done to improve environmental outcomes. Billing on the basis of actual (metered) consumption, as opposed to estimated or 'modelled' consumption, incentivises the efficient use of traction electricity by providing operators with direct feedback on the impact of acceleration rates, operating speeds and deceleration styles on consumption. We discuss ORR's specific proposals to encourage on-train metering below.

Chapter 2: Infrastructure Cost Charges

Approach to allocating avoidable fixed costs

2.2 We agree that given the significant work undertaken at PR18, no major changes should be made to the methodology for allocating traffic-avoidable fixed costs to operators.

2.3 We are considering one minor change to the detail of the current methodology, which we will consult on in autumn 2022 as part of our consultation on the recalibration of access charges. The change relates to the approach taken to disaggregating the network into geographically separate sections:[1]

a) The current methodology is underpinned by a very complex cost allocation model. We consider that it may be possible to simplify some of this complexity without undue loss of accuracy. A simpler model would be easier for stakeholders to understand and engage with, enhancing the effectiveness of stakeholder engagement.

b) A significant part of the current complexity is a result of disaggregating costs between nearly 2,000 geographically separate sections of the network. While this disaggregation is valuable, it could be achieved using a more straightforward approach, which would significantly reduce the size and complexity of the model's calculations.

c) Appendix B details such an approach. The impact of adopting this more straightforward approach would be to vary avoidable fixed cost allocations by 1% or 2% at most.

d) At this stage, we consider that this more straightforward approach would improve transparency of the drivers of avoidable fixed costs, without resulting in a less appropriate allocation of fixed costs. We will consult further on this approach as part of our recalibration exercise for CP7 later this year.

Fixed Track Access Charge

Operators subject to FTAC

2.4 We accept the continuation of FTACs for passenger services contracted by DfT, TS, and other rail authorities.

Transparency of FTAC arrangements

2.5 We support ORR's plans to make FTAC arrangements more transparent by publishing the results of our traffic-avoidable fixed cost allocation methodology, and showing how grant funding is deducted from operator cost allocations to calculate CP7 FTACs.

[1] In our September 2021 response to ORR's July 2021 consultation, we indicated that we would also review the traffic characteristics (speed, axle load, unsprung mass, Curving Class, electrification, and depot usage) used by the methodology to allocate some avoidable costs. However, in the light of responses to ORR's consultation from other stakeholders indicating that this should not be a priority at this time, and the lack of clear evidence that the existing traffic characteristics are inappropriate, we are no longer proposing to conduct such a review for PR23.

FTAC wash-up mechanism

2.6 We support the removal of the FTAC wash-up mechanism for CP7, for the reasons set out in our September 2021 response (post-Covid uncertainty and changes to the incentives faced by both contracted operators and, in due course, GBR).

Infrastructure Cost Charges for Open Access services

Retention of ICCs

2.7 We consider that all operators should contribute to the recovery of the long-run traffic-avoidable fixed costs that they cause on the network, as estimated by our avoidable fixed cost allocation methodology, where they are able to do so. We therefore support the retention of ICCs for open access operators, subject to appropriately updated market can bear tests.

2.8 We confirm ORR's understanding that we take account of forecast open access ICC revenues when calculating our revenue requirement for a forthcoming control period, and that, other things being equal, such revenues therefore reduce the level of network grant funding.

Q2.1: Retention of existing market segmentation

2.9 We note that ORR only plans to levy an ICC on a service where:

a) it falls within a market segment which it has identified as able to bear ICCs; <u>and</u>

b) there is sufficient evidence that the service can bear an ICC at the level determined appropriate for that segment.

2.10 We note that the second test would provide something of a safety net to any service falling within a market segment but with characteristics very different from that of the market segment as a whole. It may be appropriate for ORR to take the existence of such a safety net into account in assessing the benefits and risks associated with different market segmentation options.

2.11 We accept that, in the light of ORR's analysis on alternative market segmentations, and in particular the sensitivity of that analysis to unavoidable uncertainty around assumptions on the rate and pattern of post-Covid recovery of passenger demand, at this stage it appears reasonable for ORR to maintain the market segmentation established at PR18. However, we would encourage ORR to keep this under review. We note that ORR is not planning to set out its proposals on the specific level of ICCs until its Draft Determination in summer 2023, which suggests that it does not need to reach a final decision on market segmentation as early as its autumn 2022 charges conclusions.

Q2.2: Approach to setting level of ICCs

2.12 We look forward to further details of ORR's approach to setting the level of ICCs in its conclusions document in autumn 2022.

2.13 We anticipate that ORR may wish to include within that approach, a comparison of rates suggested by its 'market can bear' analysis, with the effective rates per train mile implied by avoidable fixed cost allocations from our cost modelling. We will be able to provide PR23 cost model data in due course, but by way of illustration the table below compares the effective avoidable fixed cost allocations per train mile from our PR18 cost model with the current ICC rate for new inter-urban services, for three funder-specified Service Groups that might mirror the inter-urban market segment:

Table 1: 2023/24 avoidable fixed cost allocations and ICCs (2022/23 prices)

Operator	Service Group		Avoidable fixed costs	Inter-urban ICC
			£ per train mile	
GWR	EF01	London - Bristol	9.41	
LNER	HB01	Anglo-Scottish	8.41	4.48
Avanti West Coast	HF03	Euston - Manchester	8.81	

Q2.3: Treatment of existing operators

2.14 We recognise that the relief granted at PR18 to existing open access operators from any increase in charges prompted by the introduction of the ICC for CP6 was influenced by considerations of protecting pre-existing levels of competition provided by those services, and by the fact that those services were granted access in the context of a previous access policy.

2.15 However, we believe that reliefs of this nature should be time-limited, due to the requirement under the Access & Management Regulations 2016 that the charging framework results in non-discriminatory charges for all operators providing services in a similar market segment.[2]

2.16 As noted above, even where a service falls within a market segment determined by ORR as liable to an ICC, ORR is proposing an additional safety net, only levying an ICC on that service if it considers that specific service can bear the ICC for that market segment. Therefore, given that safety net and the five-year period of relief already granted in CP6, we consider that the relief granted to existing open access operators should not be extended to CP7.

Infrastructure Cost Charges for Freight services

Retention of ICCs

2.17 As noted above, we consider that all operators should contribute to the recovery of the long-run traffic-avoidable fixed costs that they cause on the network, as estimated by our avoidable fixed cost allocation methodology, where they are able to do so. We therefore support the retention of ICCs for freight operators, subject to appropriately updated market can bear tests.

Q2.4: Retention of existing market segmentation

2.18 We accept that in the light of ORR's analysis, at this stage it appears reasonable for ORR to maintain the market segmentation established at PR18.

Q2.5: Market segments subject to ICC

2.19 We accept that, in light of ORR's analysis, at this stage it appears reasonable for ORR to:

a) continue to levy ICCs on services carrying iron ore, spent nuclear fuel, and ESI biomass;

b) remove ICCs on services carrying ESI coal; and

c) not levy ICCs on any other freight services.

2.20 We agree that ORR should keep these proposals under review in the light of further evidence emerging during PR23.

[2] Schedule 3, Paragraph 1(1)(b)

Q2.6: Approach to setting level of ICCs

2.21 We consider that, consistent with its approach to open access ICCs and its approach to ESI biomass at PR18, ORR should set the level of ICCs for all freight commodities on the basis of market can bear assessments, rather than on the basis of aggregate charges in previous control periods, which may bear little relationship to market can bear levels. As noted by ORR, the application of appropriate market can bear tests should mean that ICCs have no material effect on modal shift from road to rail.

2.22 As with open access ICCs, we anticipate that ORR may wish to include within its approach to setting freight ICCs, a comparison of rates suggested by its 'market can bear' analysis, with the effective rates per train mile implied by avoidable fixed cost allocations from our cost modelling. We will be able to provide PR23 cost model data in due course, but the table below compares the avoidable fixed cost and total fixed cost[3] allocations from our PR18 cost model with CP6 ICC rates for those commodities on which ORR proposes levying ICCs in CP7:

Table 2: 2023/24 avoidable fixed cost allocations and ICCs (2022/23 prices)

Commodity	Avoidable fixed costs	Total fixed costs	Traffic	Avoidable fixed costs	Total fixed costs	ICC
	£000	£000	kgtm 000	£ per kgtm		
Biomass	18,726	39,385	1,824	10.27	21.60	1.60
Iron Ore	1,699	3,156	171	9.96	18.50	1.75
Spent Nuclear Fuel	678	10,801	35	19.46	309.93	37.83

The table shows that ICCs for both Biomass and Iron Ore are well below both avoidable fixed cost and total fixed cost allocations. In the case of Spent Nuclear Fuel, the ICC is above the allocation of avoidable fixed costs, but still well below the allocation of total fixed costs.

2.23 As ORR explained at PR18, ICCs for all three commodities were set on the basis of keeping the aggregate level of charges constant between CP5 and CP6, not on the basis of explicit fixed cost allocations. CP5 charges had been set before the development of our PR18 cost model, and the traffic-based definition of avoidable fixed costs used in our PR18 model, which excludes from avoidable fixed costs any avoidable costs only achievable by the complete closure of a line. For example, CP5 charges incorporated a contribution to the total cost Freight Only Lines, including costs only achievable by the complete closure of such lines. Such costs are not included in our PR18 model's allocation of avoidable fixed costs, but are included in its allocation of total fixed costs.

Chapter 3: Variable charges

Variable Usage Charge

Phasing in of VUC increase

3.1 We support ORR's proposed retention of its existing VUC phasing-in policy for freight and charter operators as determined at PR18. The policy will enable rates to be cost reflective by the end of CP7. We recognise concerns raised by stakeholders in the freight sector in relation

[3] Total fixed costs comprising: (a) avoidable fixed costs; plus (b) a share of non-avoidable fixed costs (or 'common costs') allocated in line with each commodity's share of avoidable fixed costs.

to increasing costs versus the governments' environmental and rail freight growth objectives. However (and as noted above), we agree with ORR that:

a) the existing legal framework requires that VUCs should reflect the cost to Network Rail of providing access to the network and does not provide for this to be amended to account for environmental and other government objectives; and

b) this requirement implies that any phasing-in caps should be time limited - in that context, we note that under ORR's proposals, the period over which VUC charges are being phased-in to reach cost reflective levels, will be 15 years in total (start of CP5 to end of CP7).

3.2 We note that ORR has advised that it will keep the policy under review until after the PR23 recalibration, which concludes in 2023, and review its position should the recalibration exercise result in significant changes in VUC rates. At this stage, we think it unlikely that the recalibration will result in significant changes.

Cost categories recovered through VUC

3.3 We propose retaining the approach taken in PR18 in relation to those costs eligible to be recovered through the VUC. As ORR states, all the cost categories that are currently included in the calculation of VUC comply with the definitions in the 2016 Regulations and in the Commission Implementing Regulation EU 2015/909. The approach includes cost categories that are:

a) included in the minimum access package or track access to service facilities (e.g. railway infrastructure including track and points) as defined by the 2016 Access and Management Regulations;

b) not excluded under Article 4 of the implementing regulation (2015/909) (non-eligible costs) (e.g. not a network-wide overhead cost); and

c) directly incurred as a result of operating the train service, i.e. costs that vary over as a result of a sustained small change in traffic levels.[4]

Q3.1: New evidence in relation to VTISM

3.4 We support the continued development of VTISM working with RSSB and other stakeholders as required.

3.5 However, we agree with ORR's view that the timescales for the revisions to VTISM would now come too late in the PR23 process to update the formula used to allocate vertical track damage between vehicle types, with insufficient time to facilitate stakeholder consultations and implement the revisions.

3.6 We therefore support the commencement of work to develop a new vertical track damage formula, early in CP7, so that it can inform PR28.

Application of VUC to engineering trains

3.7 We agree with ORR's assessment that any perceived benefit from applying VUC to Network Rail's engineering trains would not outweigh the implementation costs.

The VUC calculator and improving the industry's understanding of VUC

3.8 Given the variability of VUCs and their financial implications, and following feedback from operators, we appreciate that they would find it helpful to have an enhanced VUC calculator

[4] Further details available at Appendix 2, *Network Rail's conclusions on variable charges and station charges in Control Period 6 (CP6)*, 14 May 2018

available which allows simultaneously modelling of a number of scenarios for different versions of new rolling stock. We have therefore recently supplemented our official VUC calculator with a 'ready reckoner' on our website for this purpose.[5]

3.9 In addition, we intend to make available additional guidance on the calculation of VUC as part of our recalibration consultation, which we will issue shortly after ORR's conclusions on charges this autumn.

Q3.2: Recalculation of VUC rates in response to removals of Heavy Axle Weight access rights

3.10 As part of the PR23 VUC recalibration, we will provide stakeholders with vehicle characteristics for review in conjunction with our assumptions on Heavy Axle Weight capability during CP7. In the event that there is an unanticipated requirement to downgrade the Route Availability to lower than Heavy Axle Weight (RA10), we are content with ORR's proposal that a new VUC rate can be calculated for existing vehicle types, in so far as the downgrade has a direct effect on characteristics.

Traction Electricity Charge

Inaccuracies in the data recorded by on-train meters

3.11 We agree with the ORR's assessment of the accuracy of on-train metering. While we are aware of some occurrences of errors from on-train meter data, these are not widespread, and we will continue to work with stakeholders to improve reporting and facilitate improvements to on-train metering equipment.

Q3.3: Removal of modelled consumption rates for new services

3.12 We support the greater use of on-train metering. Billing on the basis of actual (metered) consumption as opposed to estimated or 'modelled' consumption incentivises the efficient use of traction electricity and contributes to decarbonisation.

3.13 Although new rolling stock generally comes with meters fitted as standard, it takes an extended period for some new stock to activate on-train metering, apparently related to teething problems with commissioning and setting up the metering interface. In such circumstances, some operators use the consumption default rate. However, others apply for a modelled consumption rate. We believe that operators with new rolling stock should be incentivised to move to on-train metering as soon as possible. Therefore, we support ORR's proposal that modelled consumption rates should no longer be made available for new rolling stock.

3.14 ORR is also proposing that modelled consumption rates should no longer be made available for new services operated by existing rolling stock.

3.15 Under current arrangements, existing rolling stock applying for a new modelled consumption rate for a new service will typically already have both:

a) one or more modelled consumption rates for existing services; and

b) a 'generic' consumption rate for that rolling stock, available for use on any new service operated by that rolling stock, pending approval of a new consumption rate.

It is our understanding that ORR's proposal is such that new services will neither be able to apply for new modelled rates, nor be able to use 'generic' rates[6]. While there are some

[5] Network Rail CP6 Access Charges - Passenger & Freight VUC ready reckoners (April 2022)

[6] Both modelled consumption and generic consumption rates are calculated by Atkins on behalf of Network Rail.

outliers, the generic rates do not differ substantially from the modelled rates for individual Train Service Codes (TSCs). As such, we agree that generic rates should also not be available for new services as we don't believe this would offer an effective incentive for on-train metering for such rolling stock.

3.16 If modelled and generic consumption rates are no longer available to new vehicles or existing vehicles operating on new TSCs, to further simplify the Traction Electricity Rules, we propose the removal of generic consumption rates from CP7.

3.17 To achieve this, for those operators with a TSC assigned a generic rate, or where generic rates may still apply to legacy TSCs, we propose that operators will have until the end of CP6 to gain approval for a new modelled rate for each such TSC, failing which, the default consumption rate will apply.

3.18 We would encourage ORR to engage with operators on the likely impact of this aspect of its proposal.

Removal of Partial Fleet Metering

3.19 We support the removal of Partial Fleet Metering (PFM) option, which allows operators to extrapolate from consumption on metered trains to estimate consumption on similar un-metered trains. We note that no train operator has taken up this option since its introduction in PR13. Removal of PFM would, therefore, simplify the traction current charging framework.

Removal of Loss Incentive Mechanism

3.20 We agree that the Loss Incentive Mechanism, which gives Network Rail a share of the traction electricity wash-up, no longer acts as an effective incentive to reduce transmission losses and are content with ORR's proposal to remove it. This would again simplify the calculation of traction current charging framework.

3.21 More generally, as noted by ORR, we do not believe that there are major cost-effective interventions we can make to reduce transmission losses - which are an unavoidable feature of any real-world transmission system - below current levels. Significant reductions in transmission losses would require large scale changes in electricity supply assets, the cost of which would far outweigh any financial benefits through reduced transmission losses.

Electrification Asset Usage Charge

3.22 We support ORR's proposal to make no changes to the Electrification Asset Usage Charge for CP7, beyond recalibration.

Chapter 4: Station charges

Station Long Term Charges

Improving the industry's understanding of LTCs

4.1 We acknowledge that some stakeholders have asked for greater clarity of the calculation of station LTCs and agree that additional guidance would be helpful. We plan to publish our consultation on charges recalibration shortly after ORR's decision document this autumn, and we will include guidance on the stations LTC calculation as part that consultation.

Q4.1: Approach to calculating LTCs, including classification of large/complex stations

4.2 We support the proposed move to base station-specific LTCs on station size as opposed to managed status. This will better reflect the greater costs associated with larger/more complex stations and will reduce the distorting effect of larger franchised stations on LTCs of smaller franchised stations calculated under the 'category average' approach.

4.3 ORR details two passenger footfall-based options for the definition of a 'large' station. These options are:

a) Option A identifies the six busiest stations in each of our five regions. This option appears marginally more effective at reducing the distorting effect of larger franchised stations on LTCs of smaller franchised stations calculated under the 'category average' approach, since that effect occurs independently within each region,[7] and the option is better targeted at the largest stations within each region.

b) Option B includes more stations in the Southern region (where more stations have a high passenger footfall) and fewer stations in Scotland and Wales & Western (where relatively fewer stations have a higher passenger footfall). This option appears marginally more effective at reflecting the greater costs associated with larger/ more complex stations, as it is better targeted at the largest stations nationally.

4.4 Both options A and B increase the number of station-specific LTCs from 20 to approximately 30, and account for 30 % and 32 % of total passenger usage respectively. Beyond 20 stations, the incremental benefit of increasing the number of stations starts to diminish.

4.5 On balance, we consider Option A marginally preferable, since it better addresses the distorting effect of larger franchised stations on LTCs of smaller franchised stations calculated under the 'category average' approach in all five regions.

4.6 We will incorporate an explanation of whichever definition is adopted within our above-mentioned guidance document.

Apportionment of LTC expenditure between operators

4.7 We agree that any benefits which might be seen from moving from the existing allocation methodology based on vehicle departures to an allocation methodology based on passenger numbers, would be highly unlikely to be great enough to warrant the additional administrative effort involved in implementing the change.

Q4.2: Approach to setting LTCs for new stations

4.8 The current approach to setting LTCs for new franchised stations which open during a control period is to set the operational property element of the LTC to 10 % of the category-average charge for existing stations within the same route and station category, until the end of that control period. We agree with the proposal to apply that discount for a five-year period from the date on which the station opens, rather than ending the discount at the end of the control period. We also concur that this approach should apply to those stations which have opened during CP6 (i.e. that such stations should have discounts applied for the relevant early years of CP7).

[7] The category average approach is currently applied on a route-by-route basis, across the eight routes in place at PR18. In line with the evolution of our operating model from eight routes to five regions, we anticipate that for CP7, we will apply the category average approach on a region-by region basis.

4.9 We agree that where a new station opens during a control period and its operational property discount runs into a subsequent control period, other LTCs should be set so as to ensure that Network Rail recovers its total forecast MRR costs in that subsequent control period.[8]

Qualifying Expenditure Charge

4.10 We have recently consulted with operators on a proposal to adopt a simplified approach to the calculation of the QX charge for CP7. This would involve both the fixed and management fee elements of existing CP6 QX charges being indexed by CPI and implemented without additional recalibration in CP7.

4.11 This simplified approach reflects a recent review of station charges, in which a significant number of stakeholders expressed the view that the negotiation process for the fixed element of the QX charge is both complex and time consuming, without any clear benefit to passengers. We consider the simplified approach to be appropriate at this time as it avoids a wholesale review of QX charges during transition to GBR, for which the future station charging approach is unknown.

4.12 Over the last two months, we have received a positive response from all passenger operators at each individual managed station, confirming their support of the proposal to index the whole QX charge (including both the fixed and management fee elements) by CPI. We will make a formal proposal to this effect under the terms of the Independent Station Access Conditions in July 2022.

Chapter 5: Inflation Indexation

5.1 We support the retention of CPI as the general inflation index for updating access charges and payment rates in other mechanisms where ORR sets the method of indexation in CP7. We note ORR's confirmation that it will take account of specific changes in our input prices relative to CPI, when it assesses total operation, maintenance and renewals costs for CP7.

[8] Our suggested methodology to achieve this is laid out under paragraph 5.19 of the Network Rail response to ORR charges consultation of 24 September 2021

Appendix B – Proposed simplification to avoidable fixed cost allocation methodology

Context

A.1 The PR18 avoidable fixed cost model is highly complex - a 95MB Excel file that takes over an hour to calculate allocations for a Control Period. It is important to understand that the calculation time affects not only the time required to generate the allocations published in consultations and determinations, but also the time required for virtually any detailed interaction with the model.

A.2 At PR18, the focus of the model's development was on testing and establishing a fundamentally different allocation methodology. In many respects, complexity was accepted in an effort to accommodate a range of detailed suggestions in order to maintain focus on the credibility and robustness of the overall methodology, rather than debate the materiality of every detailed suggestion.

A.3 This resulted in a model that is arguably disproportionately complex - that is, it incorporates some elements of complexity whose incremental costs outweigh their incremental benefits (in terms of modelling efforts and running time). It is appropriate to take the opportunity now available to us to examine that issue - it would be akin to a sunk cost fallacy to persist in the retention of all complexity on the grounds that it is already present in the model, if the forward-looking incremental benefits of some degree of simplification outweigh the incremental costs.

A.4 Simplification can bring significant benefits:

a) A simpler model would be easier for stakeholders to understand and engage with, enhancing the effectiveness of stakeholder engagement.

b) Changes to the PR18 model result in numerous recalculation events which makes any attempt to refine or improve the model a laborious process. This limits our ability to improve the model by responding to new information and suggestions (NB improvements do not always create additional complexity).

c) Recalibration of the model at PR23 will require a large number of re-runs, as different inputs are adjusted at different times, through repeated early estimates into final form. Experience from PR18 suggests this will be a labour-intensive process, limiting the agility with which we can reflect changes to inputs.

d) We have started to use the model internally to bring greater transparency to the costs of specific sections of the network. This tends to require minor modifications to the front end of the model in order to analyse and summarise allocations in the appropriate way. A simpler, faster model would reduce the effort involved in such exercises and encourage more frequent application of the model, thus improving our understanding of the cost of different parts of the network, with the potential for consequent efficiency benefits.

A.5 Against this must be weighed the possibility that simplification will make allocations less accurate. However:

a) While avoidable fixed cost allocations give important signals as to the incidence of long run costs, by their nature such signals tend to be relatively broad brush - it seems highly unlikely that a change to fixed cost allocations of say 5 % will have a meaningful impact on decision making by operators or in the industry. This contrasts with charges such as the Variable Usage Charge, where it is much easier to envisage relatively small changes to charges tipping the balance on otherwise marginal decisions on rolling stock procurement and usage. Therefore, the value of chasing the highest possible degree of accuracy for fixed cost allocations seems limited.

b) Care should be taken not to assume that every simplification necessarily reduces accuracy, and that the impact of every simplification represents the degree to which the model becomes less accurate. There may be cases where a simpler approach improves accuracy - for example where it smooths volatility in results caused by noise in the accuracy of inputs. So the impact of simplifications needs to be considered case by case.

Potential simplification

A.6 Given that context, we have considered potential simplifications to the fixed cost model. The most significant potential simplification identified so far relates to the allocation of costs to over 3,000 Constant Traffic Sections (CTSs) and round 1,900 Route Sections (RSs). The PR18 model allocates:

a) around 40 % of costs (track, earthworks, bridges, signalling) to CTSs based on CTS specific data on Asset Lifecycle Profiles (ALPs) and traffic, before then mapping the cost of each CTSs to its corresponding RS; and

b) the remaining 60 % of costs, where CTS specific ALP data is not available, directly to RSs.

A.7 This two-step process for ALP-based allocations is a major source of complexity in the model. An alternative, simpler approach, for that 40 % of costs is:

a) to allocate CTS-specific data on ALPs and traffic to RSs; and then

b) allocate costs directly to RSs.

A.8 Both the PR18 approach and this simpler approach appear valid, and it's not obvious that either is less accurate. However, the simpler approach results in a much simpler model. We have created a version of the model featuring this simplification, and that considerably improves the model's usability, by:

a) nearly halving the size of the model

b) cutting recalculation time from over an hour to around 20 minutes.

A.9 The impact of the simplifications on franchised passenger operators' avoidable fixed cost allocations is modest:

a) 15 out of 20 operators see a change of 1 % or less; and

b) the remaining 5 see a change of 2 % or less.

Response to ORR's further consultation on the PR23 review of Network Rail's access charges

This pro-forma is available to those that wish to use it to respond to our consultation. Other forms of response (e.g. letter format) are equally welcome.

Please send your response to pr23@orr.gov.uk by **1 July 2022**.

Please contact Will Chivers at ORR with any queries: Will.Chivers@orr.gov.uk.

About you

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**This information will not be published on our website.*

Chapter 2: Infrastructure cost charges

Question 2.1: Do you have any views on our proposal to maintain the existing market segmentation of open access services ('interurban' and 'other'), for the purposes of setting the open access ICC?

No views

Question 2.2: Do you have any views on the most appropriate approach to setting the open access ICC for the relevant market segment in CP7?

No views

Question 2.3: Do you have any views on whether or not we should maintain relief from any increase in charges prompted by the open access ICC, for existing operators (as defined in PR18)?

No views

Question 2.4: Do you have any views on our proposal to maintain the existing market segmentation of freight services?

No views

Question 2.5: Do you have any views on our proposal to continue to allow Network Rail to levy ICCs on freight services carrying iron ore, spent nuclear fuel and ESI biomass? Do you have any views on our proposal to remove the ICC on services carrying ESI coal, pending a further review later in PR23?

No views

Question 2.6: Do you have any views on the most appropriate approach to setting freight ICCs for relevant market segments in CP7?

No views

Chapter 3: Variable charges

Question 3.1: Do you have any views on how we should take account of new evidence in relation to VTISM, for the purposes of setting the VUC?

No views

Question 3.2: Do you have any views on our proposal to review the VUC guidance for CP7 to allow a new VUC rate to be calculated for existing vehicle types that are downgraded to lower than HAW RAs, because Network Rail decides to remove HAW access rights?

No views

Question 3.3:

Do you have any views on our proposal to remove modelled consumption rates for new train services from the beginning of CP7?

Nexus' train fleet uses 1500V DC overhead line traction power, which is unique in the UK. As a result the section on Network Rail infrastructure between Pelaw and South Hylton that Nexus uses is electrified to 1500V DC which means that Nexus is the sole user of traction power supply; accordingly Nexus pays the full costs of traction power supplied in this section. As the OHL supply is unique the prospect of other trains using the OHL and a sharing of the costs is slim, however the new Nexus train fleet to be introduced in the next few years (which includes battery provision for OHL-free running) increases the potential for future changes to the OHL arrangements to 25,000V AC should this be required for future service provision. The new train fleet includes on-train meters and it should be possible to divide consumption by geography (such as the changeover point between Nexus infrastructure and Network Rail infrastructure). However, in the event that the traction supply is shared in the future and it is not possible to divide consumption by geography, Nexus would like to flag this up given the proposal to remove modelled consumption rates. Nexus would not want to be adversely affected due to needing to use default consumption rates as a result of a change in the OHL infrastructure to facilitate introduction of other services meaning the consumption charges have to be split.

Chapter 4: Station charges

Question 4.1: Do you have any views on our proposed approach to calculating LTCs for CP7, including on our proposed classification of a large / complex station i.e. Option B?

Nexus acknowledges the trade-off between increasing cost reflectivity and the additional administrative burden/complexity outlined in paragraph 4.18. In this context, Nexus is supportive of not calculating an individual LTC for all stations and continuing with the categorisation process. However as Nexus only calls at one station subject to LTC/QX (running all other stations directly itself), a change to the LTC categorisation approach such as that outlined in paragraph 4.25 could result in a substantial change in costs which Nexus is not held financially neutral for. Whilst this is a consequence of Nexus' funding arrangements, we would like to highlight the impact of such changes as any increase results in a budget pressure which affects the ability to fund provision of other services.

Question 4.2: Do you have any views on our proposed approach to setting LTCs for new stations in CP7 (and stations that have opened during CP6), such that the operational property element of their LTC is set at 10% of that for existing stations in the same route and station category for a fixed five-year period from the date of opening?

No views

Are there any other comments you would like to make?

Response to ORR's further consultation on the PR23 review of Network Rail's access charges

This pro-forma is available to those that wish to use it to respond to our consultation. Other forms of response (e.g. letter format) are equally welcome.

Please send your response to pr23@orr.gov.uk by **1 July 2022**.

Please contact Will Chivers at ORR with any queries: Will.Chivers@orr.gov.uk.

About you

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**This information will not be published on our website.*

Chapter 2: Infrastructure cost charges

Question 2.1: Do you have any views on our proposal to maintain the existing market segmentation of open access services ('interurban' and 'other'), for the purposes of setting the open access ICC?

NTL supports the proposal to maintain as outlined in the consultation.

Question 2.2: Do you have any views on the most appropriate approach to setting the open access ICC for the relevant market segment in CP7?

No comments.

Question 2.3: Do you have any views on whether or not we should maintain relief from any increase in charges prompted by the open access ICC, for existing operators (as defined in PR18)?

NTL would not support relief for open access operators operating services which can be shown to bear an ICC. It is important that the industry treats all operators fairly with regards to charging, open access operators are no different in that respect and it is important that all operators utilising Network Rail infrastructure pay to maintain and enhance the infrastructure over which they operate.

Question 2.4: Do you have any views on our proposal to maintain the existing market segmentation of freight services?

No comments.

Question 2.5: Do you have any views on our proposal to continue to allow Network Rail to levy ICCs on freight services carrying iron ore, spent nuclear fuel and ESI biomass? Do you have any views on our proposal to remove the ICC on services carrying ESI coal, pending a further review later in PR23?

NTL would support this proposal.

Question 2.6: Do you have any views on the most appropriate approach to setting freight ICCs for relevant market segments in CP7?

No comments.

Chapter 3: Variable charges

Question 3.1: Do you have any views on how we should take account of new evidence in relation to VTISM, for the purposes of setting the VUC?

NTL would be interested in the findings in relation to the new VUC guidance and understand based on the consultation documentation that this would not have any impact on CP7 rates – please let us know if this is not the case as we would be wary of additional work on the industry this Control Period. We welcome further consultation on these findings when they are released.

Question 3.2: Do you have any views on our proposal to review the VUC guidance for CP7 to allow a new VUC rate to be calculated for existing vehicle types that are downgraded to lower than HAW RAs, because Network Rail decides to remove HAW access rights?

No comments.

Question 3.3:

Do you have any views on our proposal to remove modelled consumption rates for new train services from the beginning of CP7?

We would express caution about modelled consumption rates being removed across the board for new trains. During CP6, NTL procured a new fleet of electric trains (331's) which were fitted with meters. NTL experienced issues with getting the meter system up and running and in particular there were challenges around the procurement process in setting up the third-party agent that converts the metered data into workable billing information for Network Rail. Due to the challenges, NTL was reliant on default EC4T consumption rates for a long period of time, this led to NTL commissioning work to achieve a modelled consumption rate for its 331's. The 331 modelled consumption rate was used for many months before the metering system was functioning correctly. It is also worth noting that for Operators such as NTL that have a wide range of rolling stock types – many of which are not currently fitted with metering, removing the ability to model consumption rates for new train services (for example if we need to move rolling stock to another route) could have a hugely adverse impact on NTL's business as it could restrict cascade of rolling stock types. NTL is currently undergoing a programme of meter fitment for all of its electric rolling stock types, however, there could be an argument that fitting meters to some rolling stock types that are nearly life expired is not a good use of industry funds. Again, this proposal could drive the wrong behaviours in relation to fleet cascade for those units not fitted with metering. This could be the case for other operators similar to NTL that have an older fleet and that are currently ongoing a programme of fleet modernisation.

Chapter 4: Station charges

Question 4.1: Do you have any views on our proposed approach to calculating LTCs for CP7, including on our proposed classification of a large / complex station i.e. Option B?

NTL think it would be worthwhile Network Rail considering if a "Top 6" approach for each region would be a fair representation across each of the areas, or if an alternative approach is needed say where a 7th station came close to the 6th in a particular region.

Question 4.2: Do you have any views on our proposed approach to setting LTCs for new stations in CP7 (and stations that have opened during CP6), such that the operational property element of their LTC is set at 10% of that for existing stations in the same route and station category for a fixed five-year period from the date of opening?

NTL believes that a reduction for new stations seems sensible, however, from our understanding of the consultation document we do not support this approach as this could impact train operators unfairly. Additionally, this approach would mean that modelling the cost of introduction of a new station would be complex and NTL would need additional information to do this accurately.

Are there any other comments you would like to make?

- Does FTAC/ICC still include a variable element? (Did that eventually get introduced in CP6?) How is that effected by the removal of the wash up mechanism?
- We support the publishing of guidance on explanatory notes on station LTCs, as this would allow us to better consider new stations.
- It is disappointing that the ORR have not proposed any amendments to reflect environmental costs, however, NTL understand why this is the case within the Access Charge framework. We would urge ORR to explore other options as to where decarbonisation in the industry can be incentivised
- Regarding the application of CPI to fuel costs - the two don't have a 1-2-1 relationship and so, general costs for sch 4 & 8 rates will be representative of a CPI cost uplift, but fuel/electricity charges/rebates should be linked to gov published quarterly energy price change as a yearly uplift, rather than measured ½ yearly.

ORR's further consultation on the PR23 review of Network Rail's Access charges

Response from Rail Freight Group

June 2022

1. Rail Freight Group (RFG) is pleased to respond to ORR's further consultation on PR23 review of access charges. No part of this response is confidential.

2. RFG is the representative body for rail freight in the UK, and we campaign for a greater use of rail freight, to deliver environmental and economic benefits for the UK. We have around 120 member companies including train operators, end customers, ports and terminal operators, suppliers including locomotive and wagon companies and support services.

General Comments

3. The setting of access charges is of fundamental importance to rail freight. PR23 takes place at a time of huge volatility for rail freight, from global supply chain disruption, rail reform and industrial disputes. High inflation and increased consumer costs, in part fuelled by supply chain disruption, are affecting every household in the country and rail freight operators and customers are also facing increased costs across their business. This means that the setting of access charges is as important as ever in providing a stable and affordable basis for rail freight in the control period ahead.

4. Overall the proposals outlined in the consultation appear reasonable subject to the comments below and taken alongside the previously consulted on conclusions. However, it is now important that the modelling of the actual charges can be completed rapidly, to allow freight customers and operators time to understand the full detail of the charges, the allocation between commodities and vehicle type, the phasing in and any additional ICCs which may apply.

5. There are some paragraphs in the consultation which appear to pre-assume an increase in ICCs or VUCs. We understand that the analysis has yet to be concluded, and that these comments could well therefore be premature. It will be critical that charges are set transparently on the basis of evidence.

6. We note that, since the publication of this consultation, DfT have announced a Commission to oversee changes to EU retained legislation, which could impact

on the legal framework surrounding the access framework. It will therefore be important that there is alignment between these proposals and any changes which are planned through the Commission.

Comments on Specific Questions

Question 2.1: Do you have any views on our proposal to maintain the existing market segmentation of open access services ('interurban' and 'other'), for the purposes of setting the open access ICC?

7. No comment

Question 2.2: Do you have any views on the most appropriate approach to setting the open access ICC for the relevant market segment in CP7?

8. No comment

Question 2.3: Do you have any views on whether or not we should maintain relief from any increase in charges prompted by the open access ICC, for existing operators (as defined in PR18)?

9. No comment

Question 2.4: Do you have any views on our proposal to maintain the existing market segmentation of freight services?

10. We support the proposal to maintain the existing market segmentation of freight services, and strongly support the case for not defining any further sub sections of markets, which could risk anti-competitive effects even if it could be accurately defined.

Question 2.5: Do you have any views on our proposal to continue to allow Network Rail to levy ICCs on freight services carrying iron ore, spent nuclear fuel and ESI biomass? Do you have any views on our proposal to remove the ICC on services carrying ESI coal, pending a further review later in PR23?

11. We have no specific comment on the continuation of the ICC for iron ore, spent nuclear fuel and ESI biomass, although as outlined below it is important that the level of charge is set transparently, fairly and affordably. We note the reasons for removing the charge on coal, and support the general principle of both removing, as well as applying, charges when situations change. ORR should consider

whether the potential perception issues which would arise from making coal transport cheaper would be outweighed by the benefits of this change.

Question 2.6: Do you have any views on the most appropriate approach to setting freight ICCs for relevant market segments in CP7?

12. We recognise that the legal framework for the market can bear test is interpreted by the potential for traffic to revert to road if costs rise. However, even in those sectors where an ICC is levied, the impact of cost increases will have to be absorbed somewhere in the supply chain, even if traffic remains on rail. With the current cost of living pressures, high electricity prices and global volatility the impact of significant price rises for freight transport risks adding to inflationary pressures or consumer costs, particularly in the power sector. As such we would caution against setting significantly higher charges and would favour an approach which left the level of ICC at a consistent level with CP6.

13. We agree on the need for transparency. It is particularly important that efficiency gains are fed through into the costs, and that freight charges are not increased simply as a result of fewer passenger trains operating on the network.

Question 3.1: Do you have any views on how we should take account of new evidence in relation to VTISM, for the purposes of setting the VUC?

14. We welcome the work that is underway to further develop VTISM and the understanding of track damage costs. However the model, and the analysis is complex, and any changes need to be carefully considered and analysed, and their impacts assessed prior to used as part of the assessment of charges. We also note that the work is highlighting areas, such as the track impacts of different bogies, where more analysis is required.

15. Given that the work is not yet complete, we agree that it is unlikely the work could be reasonably included in the modelling for CP7, which needs to start soon. As such we agree that the work should be developed for consideration in the next control period.

16. We do not agree with all of paragraph 3.35 which suggests that the phasing in of charges would somehow compensate for any increase which arose from these changes. As the consultation states that the full cost reflective rate will be paid by the end of CP7, any support from the phasing will be short lived. Not all freight commodities have their rates capped, so any increase would pass on immediately to some sectors, for example intermodal.

17. The text also seems to presume that the changes to VTISM will increase rates for freight. It is not clear to us that this is necessarily the case, and it is concerning that ORR appear to believe that will be the outcome. We would suggest that the work is concluded prior to any such conclusion being reached.

Question 3.2: Do you have any views on our proposal to review the VUC guidance for CP7 to allow a new VUC rate to be calculated for existing vehicle types that are downgraded to lower than HAW RAs, because Network Rail decides to remove HAW access rights?

18. We support this conclusion. However the loss of RA10 capability would have a significant cost implication for operators and customers, and an efficiency loss for the network, and should be avoided wherever possible. This mechanism should not be seen as an alternative to providing the capability, rather an adjustment in the event that it is no longer possible.

Question 3.3: Do you have any views on our proposal to remove modelled consumption rates for new train services from the beginning of CP7?

19. Some older freight locomotives are not technically able to be fitted with meters in a cost effective way. This proposal appears to preclude the start of any new service using one of those locomotives, which would be a significant issue, preventing modal shift or increasing the use of diesel traction. Any policy must be designed to ensure that, whilst encouraging a shift to metered use, it remains possible to use older traction which cannot be fitted with meters.

Question 4.1: Do you have any views on our proposed approach to calculating LTCs for CP7, including on our proposed classification of a large / complex station i.e. Option B?

20. No comment

Question 4.2: Do you have any views on our proposed approach to setting LTCs for new stations in CP7 (and stations that have opened during CP6), such that the operational property element of their LTC is set at 10% of that for existing stations in the same route and station category for a fixed five-year period from the date of opening?

21. No comment

Response to ORR's further consultation on the PR23 review of Network Rail's access charges

This pro-forma is available to those that wish to use it to respond to our consultation. Other forms of response (e.g. letter format) are equally welcome.

Please send your response to pr23@orr.gov.uk by **1 July 2022**.

Please contact Will Chivers at ORR with any queries: Will.Chivers@orr.gov.uk.

About you

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**This information will not be published on our website.*

This response is on behalf of owning group and freight members of Rail Partners

Chapter 2: Infrastructure cost charges

Question 2.1: Do you have any views on our proposal to maintain the existing market segmentation of open access services ('interurban' and 'other'), for the purposes of setting the open access ICC?

Rail Partners supports the continued use, and definitions, of the interurban and other market segments in order to calculate infrastructure cost charges for CP7. Given that it is not yet clear how passenger demand will look once footfall has returned to a steady state following the pandemic it is not appropriate at this time to amend the market segmentation – as, for example, long-distance leisure demand has returned more quickly than other service groups which would affect the market segmentation but it is not necessarily a long-term trend. However, when passenger demand across different service groups has stabilised it may be appropriate to review market segmentation again to ensure it is applied to flows with the greatest operating surplus.

We would make a general point that applying ICCs to open access operators ensures a contribution to the fixed costs of the network which nets off the impact to some extent of any initial revenue abstraction resulting from new open access operations. ORR said this should lead to more open access opportunities. The reality is that it has resulted in few open access applications and there have been no new approvals in CP6.

Question 2.2: Do you have any views on the most appropriate approach to setting the open access ICC for the relevant market segment in CP7?

The ICC should reflect that passengers continue to use the railway in a different way to before the pandemic, therefore the services with greater operator surplus are likely to be different to previous analysis, and as such the effect of potential future open access services is likely to be different too.

Question 2.3: Do you have any views on whether or not we should maintain relief from any increase in charges prompted by the open access ICC, for existing operators (as defined in PR18)?

Rail Partners is in principle supportive of the proposal for existing open access operators to retain relief from ICC payments for CP7, noting that their original business cases would have been based on the charging framework that was in place at the time.

Question 2.4: Do you have any views on our proposal to maintain the existing market segmentation of freight services?

Rail Partners supports the ORR's proposal to maintain the existing market segmentation of freight services for CP7. Any further sub-segmentation of the market would increase complexity for customers and create risks for the market. Given the high levels of substitutability across most commodities any further segmentation or geographic charges, could result in modal shift back to road.

Question 2.5: Do you have any views on our proposal to continue to allow Network Rail to levy ICCs on freight services carrying iron ore, spent nuclear fuel and ESI biomass? Do you have any views on our proposal to remove the ICC on services carrying ESI coal, pending a further review later in PR23?

Rail Partners notes the market-can-bear analysis annexed to the consultation document, and recognises the need for Network Rail to recover some of the fixed costs of the network where commodities are more captive to rail.

However, by levying ICCs for freight services, even within markets with relatively low elasticity, modal shift from road to rail and wider freight growth opportunities are reduced. This goes against the strong commitment to freight growth in the Williams-Shapps Plan for Rail. The proportionality of this charge also needs to be considered. The revenue generated from freight ICCs is extremely small and we would encourage ORR to focus more on what can be done within the existing legislation to support the Government's objective to grow rail freight and support environmental and levelling-up objectives. This should include incentives to accelerate the use of low-carbon traction on the rail network (e.g. electric locomotives and biofuels).

As outlined in the consultation document, the proposal to remove the ICC from ESI coal has been made based on the high administrative cost associated with levying the charge against the revenue generated by the ICC for Network Rail – Rail Partners would welcome further information on how the proportionality threshold for ICCs across different commodities is assessed. We recognise that ORR will keep the decision to remove the ESI Coal ICC under review and will consider actual traffic towards the end of the periodic review.

Question 2.6: Do you have any views on the most appropriate approach to setting freight ICCs for relevant market segments in CP7?

Rail Partners freight operating members would support the CP6 approach being retained for CP7, where the overall cost recovery is held at the same level, particularly should ORR continue to pursue the phasing-in of VUC in CP7. This supports predictability and simplicity for customers. Significant increases in freight charges need to be avoided in PR23, as this would be contrary to the Government's objective to grow rail freight and decarbonise the economy. It would affect rail freight's ability to compete with other modes in a highly competitive logistics sector and risks undermining the strong commitment to freight growth outlined in the William-Shapps Plan for Rail, and the growing demand for rail freight services.

Chapter 3: Variable charges

Question 3.1: Do you have any views on how we should take account of new evidence in relation to VTISM, for the purposes of setting the VUC?

Rail Partners freight operating members welcome the work underway to better understand costs associated with track damage. However, as this work is yet to be completed it is much too early to use the outputs to determine the proportion of track-related costs recovered through the VUC. Far more scrutiny and challenge will be required to give confidence in this area for all affected operators.

The consultation implies that the result of this exercise will be an increase in costs recovered through the VUC. This is a significant concern for freight members. The consultation notes that there is some relief because VUC rates "*are already capped below fully cost-reflective rates*". This is not the case for many commodities – including the largest commodity (intermodal), where caps have already been unwound. Furthermore, all other caps will be unwound in CP7, if ORR chooses to maintain its phasing-in approach, and therefore there will be no mitigation through the control period from the caps.

While freight operator members welcome ORR's preference not to update the vertical track damage formula at this time and instead wait for the outcome of Serco and RSSB's review and revisit this proposal at the next periodic review, we ask ORR to not seek to change the allocation of costs in PR23, given the timescales will not allow for adequate scrutiny and the implications for the sector could be severe. Our members have previously expressed concern regarding the time available to engage with industry and implement any proposed changes to the VTISM ahead of the new Control Period, particularly as this exercise would have happened concurrently to the wider recalibration of Network Rail charges.

Question 3.2: Do you have any views on our proposal to review the VUC guidance for CP7 to allow a new VUC rate to be calculated for existing vehicle types that are downgraded to lower than HAW RAs, because Network Rail decides to remove HAW access rights?

Rail Partners supports the proposal to introduce a new VUC rate for services on routes which have their Route Availability downgraded during the Control Period. This will avoid freight operators effectively overpaying their VUC contribution if they are notified by Network Rail that they will have to run lighter trains which clearly has a detrimental commercial impact on the viability of the service. Rail Partners agrees that the increased administrative cost of such a rate is outweighed by the benefit to operators and customers.

That being said, it is important that Network Rail is funded so that it can maintain Route Availabilities at a steady state during the next control period. A failure to do this would harm investor confidence across the freight sector and would significantly compromise freight growth opportunities across bulk markets, particularly in the construction sector.

Question 3.3:

Do you have any views on our proposal to remove modelled consumption rates for new train services from the beginning of CP7?

Rail Partners is supportive of incentives to promote the rollout of OTM for EC4T, recognising the benefits of a more accurate approach to monitoring energy usage across the rail industry.

The consultation outlines a proposal to mandate OTM for all 'new train services' which will incorporate any service using new vehicles or requiring a new modelled consumption rate. Due consideration must be taken to avoid freight operators being effectively prohibited from utilising non-metered electric freight traction on new services by charging a default rate. Freight operators maintain go-anywhere capability and need to react at short notice to changes in customer demand. Charging a default rate for non-metered traction would effectively result in the use of diesel traction for services where electric traction could be an option. Freight operators ask ORR to consider the environmental implications of such a policy.

As acknowledged in the consultation document, new vehicles are typically fitted with OTM as standard, therefore it is right that such rolling stock is expected to use metering upon introduction. If an operator were to introduce a service that required a new service code they would also be required to introduce OTM even if the vehicle was not fitted with a meter. If, as Network Rail have indicated, the cost of modelling the rate for a new train service is around £12,000 which is equivalent to the cost of retrofitting OTM equipment for an AC-train set, it makes sense to mandate the use of OTM as it is a more effective way of monitoring energy usage providing that the fitment cost is not borne by operators.

To ensure that operators are held financially harmless, a ring-fenced fund to support the implementation of OTM should be provided. This should effectively be selffunding given the costs of modelling consumption rates that Network Rail has provided.

Chapter 4: Station charges

Question 4.1: Do you have any views on our proposed approach to calculating LTCs for CP7, including on our proposed classification of a large / complex station i.e. Option B?

Rail Partners welcomes the commitment from Network Rail to publish additional guidance on the calculation method used to estimate station LTCs. This will improve transparency and understanding within the rail industry about how station costs and charges are calculated while also providing enhanced cost reflectivity.

Of the two options outlined in the consultation document, Rail Partners prefers Option B. This option includes a greater number of the busiest stations on the network ensuring that they are not included in the route-level charges, but appreciates concerns regarding the administrative costs of calculating station specific forecasts for a significant number of stations. To allow for better forecasting of charges, the approach for calculating charges should include all obligations at a particular station.

We also agree that there should be additional room to make further changes to station charging in the future following rail reform, depending on any changes to responsibilities and the allocation of cost and revenue risk.

Question 4.2: Do you have any views on our proposed approach to setting LTCs for new stations in CP7 (and stations that have opened during CP6), such that the operational property element of their LTC is set at 10% of that for existing stations in the same route and station category for a fixed five-year period from the date of opening?

Rail Partners is supportive of this proposal. As per Network Rail's analysis, stations will require lower maintenance costs during the early part of their asset lifespan, therefore LTCs for new stations should be set at a lower level. Operators endorse ORR's proposal to treat stations as new for a five year period from the date of opening as it avoids charging being arbitrarily affected by the date of a new control period.

Are there any other comments you would like to make?

n/a

Response to ORR's further consultation on the PR23 review of Network Rail's access charges

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Please send your response to pr23@orr.gov.uk by **1 July 2022**.

Please contact Will Chivers at ORR with any queries: Will.Chivers@orr.gov.uk.

About you

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**This information will not be published on our website.*

Chapter 2: Infrastructure cost charges

Question 2.1: Do you have any views on our proposal to maintain the existing market segmentation of open access services ('interurban' and 'other'), for the purposes of setting the open access ICC?

No comment

Question 2.2: Do you have any views on the most appropriate approach to setting the open access ICC for the relevant market segment in CP7?

No comment

Question 2.3: Do you have any views on whether or not we should maintain relief from any increase in charges prompted by the open access ICC, for existing operators (as defined in PR18)?

No comment

Question 2.4: Do you have any views on our proposal to maintain the existing market segmentation of freight services?

No comment

Question 2.5: Do you have any views on our proposal to continue to allow Network Rail to levy ICCs on freight services carrying iron ore, spent nuclear fuel and ESI biomass? Do you have any views on our proposal to remove the ICC on services carrying ESI coal, pending a further review later in PR23?

No comment

Question 2.6: Do you have any views on the most appropriate approach to setting freight ICCs for relevant market segments in CP7?

No comment

Chapter 3: Variable charges

Question 3.1: Do you have any views on how we should take account of new evidence in relation to VTISM, for the purposes of setting the VUC?

No comment

Question 3.2: Do you have any views on our proposal to review the VUC guidance for CP7 to allow a new VUC rate to be calculated for existing vehicle types that are downgraded to lower than HAW RAs, because Network Rail decides to remove HAW access rights?

No comment

Question 3.3:

Do you have any views on our proposal to remove modelled consumption rates for new train services from the beginning of CP7?

Southeastern appreciate the intention behind this proposal and support incentivising the use of On Train Metering. However, widening the scope from 'new rolling stock' to 'new services' could have a financially detrimental impact on the procurement of rolling stock from elsewhere in the industry. To install old rolling stock with meters would require design, approvals, material lead times, fitment etc – none of which can be done until the rolling stock is in the operator's ownership. It would be beneficial for operators to be awarded a grace period (18 months being a realistic view of the scope of works included above) on modelled consumption rates until such time that meters can be installed and failure to do so in this period is at the operators' risk.

Chapter 4: Station charges

Question 4.1: Do you have any views on our proposed approach to calculating LTCs for CP7, including on our proposed classification of a large / complex station i.e. Option B?

Southeastern agree with the principle of what is proposed however note that it is unlikely to impact the Southeastern Network. This change could increase the administrative burden on operators especially as there would need to be a far greater level of transparency when these costs are first introduced.

Question 4.2: Do you have any views on our proposed approach to setting LTCs for new stations in CP7 (and stations that have opened during CP6), such that the operational property element of their LTC is set at 10% of that for existing stations in the same route and station category for a fixed five-year period from the date of opening?

Southeastern are supportive of the proposal to class stations as 'new' for a 5 -year fixed period. There does however need to be some more clarity as to when the fixed period would commence as there can often be a prolonged period between the completion of station and the actual opening. For example, Thanet Parkway is due for construction to be complete in May 22 however there is likely to up to a year gap until the station becomes operational. Therefore, we would expect any wear and tear on the asset to be minimal in this period with no passengers. We would not expect this 'unused' period be included within the 5-year period.

Are there any other comments you would like to make?

With the recent rises in inflation, is there any scope to review the retention of CPI and consider setting a stand-alone rate that would help to control the ongoing impacts of inflation. Continuing to use CPI will only work to encourage the growth of national inflation and this may be an opportunity to work together to control the impact of these rising rates on the industry.

Response to ORR's further consultation on the PR23 review of Network Rail's access charges

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Please send your response to pr23@orr.gov.uk by **1 July 2022**.

Please contact Will Chivers at ORR with any queries: Will.Chivers@orr.gov.uk.

About you

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**This information will not be published on our website.*

Chapter 2: Infrastructure cost charges

Question 2.1: Do you have any views on our proposal to maintain the existing market segmentation of open access services ('interurban' and 'other'), for the purposes of setting the open access ICC?

As an independent Infrastructure Manager whose network adjoins the Network Rail network we would welcome the proposal to maintain the existing market segmentation. This would mean that both Network Rail's network and the CVL network align. We believe it is important that where economies of scale can benefit the rail industry, made by closer cooperation between IMs, that these continue throughout CP7. AIW would not be supportive of changes that weaken alignment between the IMs as this would likely introduce extra cost to the rail industry as a whole.

Question 2.2: Do you have any views on the most appropriate approach to setting the open access ICC for the relevant market segment in CP7?

None

Question 2.3: Do you have any views on whether or not we should maintain relief from any increase in charges prompted by the open access ICC, for existing operators (as defined in PR18)?

None

Question 2.4: Do you have any views on our proposal to maintain the existing market segmentation of freight services?

As an independent Infrastructure Manager whose network adjoins the Network Rail network we would welcome the proposal to maintain the existing market segmentation. This would mean that both Network Rail's network and the CVL network align. We believe it is important that where economies of scale can benefit the rail industry, made by closer cooperation between IMs, that these continue throughout CP7. AIW would not be supportive of changes that weaken alignment between the IMs as this would likely introduce extra cost to the rail industry as a whole.

Question 2.5: Do you have any views on our proposal to continue to allow Network Rail to levy ICCs on freight services carrying iron ore, spent nuclear fuel and ESI biomass? Do you have any views on our proposal to remove the ICC on services carrying ESI coal, pending a further review later in PR23?

None

Question 2.6: Do you have any views on the most appropriate approach to setting freight ICCs for relevant market segments in CP7?

None

Chapter 3: Variable charges

Question 3.1: Do you have any views on how we should take account of new evidence in relation to VTISM, for the purposes of setting the VUC?

We believe that although it is better to have more cost reflective VUCs it is also important that the VUC is not changed part way through a control period. This is because independent IMs and Network Rail need to coordinate their charging regimes and processes. A move to introduce changes part way through the control period could lead to problems with charging regimes and downstream processes of the independent IM's. The ORR should be mindful of the close coordination and cooperation that exists between Network Rail and the independent IM's. We believe it is important that where economies of scale can benefit the rail industry, made by closer cooperation between IMs, that these continue throughout CP7. AIW would not be supportive of changes that weaken alignment between the IM's as this would likely introduce extra cost to the rail industry as a whole.

Question 3.2: Do you have any views on our proposal to review the VUC guidance for CP7 to allow a new VUC rate to be calculated for existing vehicle types that are downgraded to lower than HAW RAs, because Network Rail decides to remove HAW access rights?

Where trains cross from Network Rail onto another IM, consideration should be given how the charging regimes would work. Some IMs use the same charging regimes and systems as Network Rail. For example, the TABS system. TABS can only calculate charges for a train journey where one rate exists. If there is divergence between the IMs on how they charge then TABS would not be able to cope with the multiple billing options. We believe it is important that where economies of scale can benefit the rail industry, made by closer cooperation between IMs, that these continue throughout CP7. AIW would not be supportive of changes that weaken alignment between the IMs as this would likely introduce extra cost to the rail industry as a whole.

Question 3.3:

Do you have any views on our proposal to remove modelled consumption rates for new train services from the beginning of CP7?
No

Chapter 4: Station charges

Question 4.1: Do you have any views on our proposed approach to calculating LTCs for CP7, including on our proposed classification of a large / complex station i.e. Option B?

No

Question 4.2: Do you have any views on our proposed approach to setting LTCs for new stations in CP7 (and stations that have opened during CP6), such that the operational property element of their LTC is set at 10% of that for existing stations in the same route and station category for a fixed five-year period from the date of opening?

No

Are there any other comments you would like to make?

Independent IM's need to work closely with Network Rail in the areas of train planning, performance, and charges. In terms of this periodic review, we feel that there needs to be more consideration given to how the proposals will work in practice where a train crosses from one IM to another. For example, will the common downstream systems and processes will work? AIW has raised its concerns with the ORR, particularly about the need for close cooperation with Network Rail. We believe it is important that where economies of scale can benefit the rail industry, made by closer cooperation between IMs, that these continue throughout CP7. AIW would ask that the ORR is mindful of the importance of maintaining alignment of this Periodic Review and other IM charging reviews. AIW would be concerned that where significant divergence takes place between IM's that this could result in increase in cost to the rail industry as a whole.

Response to ORR's further consultation on the PR23 review of Network Rail's access charges

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Please send your response to pr23@orr.gov.uk by **1 July 2022**.

Please contact Will Chivers at ORR with any queries: Will.Chivers@orr.gov.uk.

About you

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**This information will not be published on our website.*

Chapter 2: Infrastructure cost charges

Question 2.1: Do you have any views on our proposal to maintain the existing market segmentation of open access services ('interurban' and 'other'), for the purposes of setting the open access ICC?

We consider that all open access services should contribute to the fixed costs of the network.

Question 2.2: Do you have any views on the most appropriate approach to setting the open access ICC for the relevant market segment in CP7?

The charge should reflect the share of fixed cost that the open access operator concerned would attract using the methodology applied to operators contracted by funders (such as the Department for Transport and Transport for London).

Question 2.3: Do you have any views on whether or not we should maintain relief from any increase in charges prompted by the open access ICC, for existing operators (as defined in PR18)?

This relief should not be maintained, particularly as the operators concerned have been forewarned of the potential imposition of these Infrastructure Cost Charges.

Question 2.4: Do you have any views on our proposal to maintain the existing market segmentation of freight services?

We consider that all freight services should contribute to the fixed costs of network operation.

Question 2.5: Do you have any views on our proposal to continue to allow Network Rail to levy ICCs on freight services carrying iron ore, spent nuclear fuel and ESI biomass? Do you have any views on our proposal to remove the ICC on services carrying ESI coal, pending a further review later in PR23?

Refer to our response to question 2.4

Question 2.6: Do you have any views on the most appropriate approach to setting freight ICCs for relevant market segments in CP7?

The charge should reflect the share of fixed cost that the freight operators concerned would attract using the methodology applied to operators contracted by funders (such as the Department for Transport and Transport for London).

Chapter 3: Variable charges

Question 3.1: Do you have any views on how we should take account of new evidence in relation to VTISM, for the purposes of setting the VUC?

We have no views on this matter.

Question 3.2: Do you have any views on our proposal to review the VUC guidance for CP7 to allow a new VUC rate to be calculated for existing vehicle types that are downgraded to lower than HAW RAs, because Network Rail decides to remove HAW access rights?

We have no views on this matter.

Question 3.3:

Do you have any views on our proposal to remove modelled consumption rates for new train services from the beginning of CP7?

We have no views on this matter.

Chapter 4: Station charges

Question 4.1: Do you have any views on our proposed approach to calculating LTCs for CP7, including on our proposed classification of a large / complex station i.e. Option B?

The financial implications of the proposed changes to large/complex stations managed by operators require further consideration. If they cause charges to rise that would clearly be unwelcome in the current environment. Stratford and Highbury & Islington stations are a particular concern to us in this regard. We need to understand the financial implications and rationale for any changes in more detail before we are able to comment further.

Question 4.2: Do you have any views on our proposed approach to setting LTCs for new stations in CP7 (and stations that have opened during CP6), such that the operational property element of their LTC is set at 10% of that for existing stations in the same route and station category for a fixed five-year period from the date of opening?

We have no views on this matter.

Are there any other comments you would like to make?

Our key concern remains with the Fixed Track Access Charge (FTAC) , and its interaction with the Network Grant. As stated in our previous consultation response the potential for significant changes to these charges due to the post pandemic alterations to service levels operated on the network has the potential to destabilise our financial position. The position would become more acute if a decision was made to channel more of the Network Grant funding via the FTAC, leaving funders such as ourselves exposed to significant additional costs. We note that you are continuing to discuss the future of the Network Grant with your partners in government and would welcome the opportunity to discuss this further with ORR. The position of LU during CP7 also needs to be clarified. We are assuming that the current bespoke network access arrangements will continue but need certainty on what is proposed in this regard. Finally we would also like to understand how any efficiencies Network Rail are required to make will be passed back to funders during CP7.

OFFICE OF RAIL AND ROAD

Response to ORR's further consultation on the PR23 review of Network Rail's access charges

This pro-forma is available to those that wish to use it to respond to our consultation. Other forms of response (e.g. letter format) are equally welcome.

Please send your response to pr23@orr.gov.uk by **1 July 2022**.

Please contact Will Chivers at ORR with any queries: Will.Chivers@orr.gov.uk.

About you

Full name: Chris Dellard

Job title: Head of Access Planning

Organisation: Transport for Wales Rail Ltd (TfWRL), also representing Transport for Wales (TfW). This is a joint TfWRL / TfW response in terms of the Wales and Borders Network Rail network only.

Email*: [redacted]

Telephone number*: [redacted]

This information will not be published on our website.

Chapter 2: Infrastructure cost charges

Question 2.1: Do you have any views on our proposal to maintain the existing market segmentation of open access services ('interurban' and 'other'), for the purposes of setting the open access ICC?

No.

Question 2.2: Do you have any views on the most appropriate approach to setting the open access ICC for the relevant market segment in CP7?

No.

Question 2.3: Do you have any views on whether or not we should maintain relief from any increase in charges prompted by the open access ICC, for existing operators (as defined in PR18)?

No.

Question 2.4: Do you have any views on our proposal to maintain the existing market segmentation of freight services?

No.

Question 2.5: Do you have any views on our proposal to continue to allow Network Rail to levy ICCs on freight services carrying iron ore, spent nuclear fuel and ESI biomass? Do you have any views on our proposal to remove the ICC on services carrying ESI coal, pending a further review later in PR23?

No.

Question 2.6: Do you have any views on the most appropriate approach to setting freight ICCs for relevant market segments in CP7?

No.

Chapter 3: Variable charges

Question 3.1: Do you have any views on how we should take account of new evidence in relation to VTISM, for the purposes of setting the VUC?

No.

Question 3.2: Do you have any views on our proposal to review the VUC guidance for CP7 to allow a new VUC rate to be calculated for existing vehicle types that are downgraded to lower than HAW RAs, because Network Rail decides to remove HAW access rights?

No.

Question 3.3:

Do you have any views on our proposal to remove modelled consumption rates for new train services from the beginning of CP7?
No.

Chapter 4: Station charges

Question 4.1: Do you have any views on our proposed approach to calculating LTCs for CP7, including on our proposed classification of a large / complex station i.e. Option B?

We support separate calculation of LTC for any stations where it would make LTC rates for those stations more cost-reflective. The proposed classification outlined in Option B seems logical and we note that it includes one station on Wales Route, which is managed by TfWRL (Cardiff Central).

Question 4.2: Do you have any views on our proposed approach to setting LTCs for new stations in CP7 (and stations that have opened during CP6), such that the operational property element of their LTC is set at 10% of that for existing stations in the same route and station category for a fixed five-year period from the date of opening?

We agree with this approach.

Are there any other comments you would like to make?

No.

Response to ORR's further consultation on the PR23 review of Network Rail's access charges

This pro-forma is available to those that wish to use it to respond to our consultation. Other forms of response (e.g. letter format) are equally welcome.

Please send your response to pr23@orr.gov.uk by **1 July 2022**.

Please contact Will Chivers at ORR with any queries: Will.Chivers@orr.gov.uk.

About you

Full name: Raymond Convill

Job title: Senior Policy Officer

Organisation: Transport Scotland

Email*: [redacted]

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**This information will not be published on our website.*

Chapter 2: Infrastructure cost charges

Question 2.1: Do you have any views on our proposal to maintain the existing market segmentation of open access services ('interurban' and 'other'), for the purposes of setting the open access ICC?

No comment.

Question 2.2: Do you have any views on the most appropriate approach to setting the open access ICC for the relevant market segment in CP7?

No comment.

Question 2.3: Do you have any views on whether or not we should maintain relief from any increase in charges prompted by the open access ICC, for existing operators (as defined in PR18)?

Transport Scotland is content at present for this relief to continue to be provided.

Question 2.4: Do you have any views on our proposal to maintain the existing market segmentation of freight services?

See comment at 2.5

Question 2.5: Do you have any views on our proposal to continue to allow Network Rail to levy ICCs on freight services carrying iron ore, spent nuclear fuel and ESI biomass? Do you have any views on our proposal to remove the ICC on services carrying ESI coal, pending a further review later in PR23?

As these are largely operational and technical issues, Transport Scotland has no specific view at this stage on these questions (eg 2.4 - 2.6) but would certainly be interested to see how wider industry responds. Based on evidence provided at that stage, we may seek to comment further, noting possible time constraints.

Question 2.6: Do you have any views on the most appropriate approach to setting freight ICCs for relevant market segments in CP7?

Chapter 3: Variable charges

Question 3.1: Do you have any views on how we should take account of new evidence in relation to VTISM, for the purposes of setting the VUC?

Transport Scotland considers that the approach to charges for access should be based on ensuring that the best whole system cost is incentivised by them. In order to be valid, the mechanism for any variable usage charge should be both technically correct in its assessment and accurately reflect the difference in Network Rail's costs that can be realised in its application. If those savings cannot be realised, then it will not achieve its intended purpose; we look to ORR to directly support efforts to realise better performance and realisation of savings. Vehicles both wear and are worn by the track. Freight train-derived wear of the rail head in particular has a positive cost impact, since it reduces the tendency to start and grow rolling contact fatigue mechanisms, reducing the requirement for rail head grinding, or premature rail replacement. Poor quality track introduces damage to freight (and passenger) train suspensions and wheels, and increases fatigue of vehicle body structures; better vehicle ride quality is more attractive to passengers. It is well known that better track stays good for longer and costs less to keep good than poorly installed track. Thus, in order to ensure the best whole system cost, a Quality of Service-based approach is required, calculations of Variable Usage Charge should be a bi-directional process - poor track conditions should result in a reduction in access charges, reflecting the additional costs to train maintainers. We note the comments about the unknown effect of Williams Review and consequential changes in industry structure - whilst not unimportant, the engineering understanding of the wheel/rail interface is not changed by it.

In addition, the ORR must be mindful of the need to promote modal shift to rail. Paragraph 3.15 shows that recent modelling suggests that increasing VUC rates to reach fully cost-reflective levels by the end of CP7 would reduce rail freight volumes. The impact would be to reduce volumes (in tonne kms) by less than 2.5% for all but one of the commodities modelled, and around 4% for construction materials. This does not appear to be compatible with the Scottish Government’s (or indeed the UKG’s) policy to grow rail freight and must be kept under review to ensure that it does not result in modal shift in the wrong direction. This is especially important at a time when recent research commissioned by TS shows that 23% of freight currently moved by road will have to move to rail or water by 2030 if we are to meet our transport emission targets.

Fuel duty for HGVs has been frozen to reduce transport costs for 11 consecutive years. It is important to note that continuing to increase charges for rail freight while road charges remain frozen could result in the unintended consequence of freight reverting to road and policy objectives not being met.

Question 3.2: Do you have any views on our proposal to review the VUC guidance for CP7 to allow a new VUC rate to be calculated for existing vehicle types that are downgraded to lower than HAW RAs, because Network Rail decides to remove HAW access rights?

Noting the Transport Scotland response to Question 3.1, this is philosophically compatible with the TS view - if freight operators' revenue potential is reduced by payload reduction due to Network Rail's decision, the operators' cost base should reflect that reduction in capability. We support the incentivisation of greater transparency of cost and understanding of real cost.

Question 3.3:

Do you have any views on our proposal to remove modelled consumption rates for new train services from the beginning of CP7?

Transport Scotland remains unpersuaded that the retrofitment of meters to existing trains will be cost effective; in an area with few operators, and a high proportion of metered trains, there will be vanishing returns on the fitment of any further meters, since few fleets will be on the modelled tariff; ultimately, if only a single operator with unmetered trains is using the electricity in an area, there will be no payback; this may already be the case in Scotland. The railway system is entering a period of transition to an increasingly decarbonised state. This will require potentially more cascades of trains in support of the removal of diesel, with older existing electric trains being utilised as to provide interim cover pending delivery of new electric trains, and enabling earlier use of electrification (where fitted). It will be unwelcome if this is undermined by a requirement to fit on-train metering, considering the available payback period for such work could be comparatively short. Life extension of diesels is equally unpalatable. We note the lack of any commentary on the system knowledge that an increase in the proportions metered trains in the national fleet, either new trains or existing trains retrofitted with meters, will bring, enabling better understanding of the losses sustained in the distribution network, or in the OLE/3rd rail; such losses are currently pooled in the wash-up, and borne by the operators. This lack of insight from Network Rail and ORR is disappointing. There is a lack of commentary on the metering and charging of trains in the event that they regenerate to the network, and the metering of battery trains. It is entirely possible that BEMUs will be in service in CP7.

EC4T Charges – On this related matter, while noting the legislative constraints, it is disappointing that nothing is being done to address the problem of rising costs. Recent substantial increases in these charges has shown the significant impact that this can have on the use of the network. Operators having no alternative than to revert to diesel services to make a freight flow affordable not only increases emissions but reduces capacity on the network for both passenger and freight services. It also impacts on the Scottish Government’s ability to meet its challenging transport emission targets which are binding in law.

Chapter 4: Station charges

Question 4.1: Do you have any views on our proposed approach to calculating LTCs for CP7, including on our proposed classification of a large / complex station i.e. Option B?

Transport Scotland has a significant issue in the calculation of all LTCs. The Scottish Government investment in new stations has seen Network Rail fail to adequately and timely provide details of LTCs for these new station and indeed some are still outstanding 2/3 years since opening. Additionally, we feel the charges do not match the actual costs and would rather that some of the activities are better serviced by the station operator and in many cases with Scotland we operator is doing most of the maintenance activities whilst NR continue to charge for these. ORR should allow most of these activities do be agreed between the funder, the operator and NR.

Question 4.2: Do you have any views on our proposed approach to setting LTCs for new stations in CP7 (and stations that have opened during CP6), such that the operational property element of their LTC is set at 10% of that for existing stations in the same route and station category for a fixed five-year period from the date of opening?

We totally disagree with this approach and feel it will make some station unaffordable to operate. Our comment under Q4.1 should always apply in these circumstances. This is the whole approach being taken by NR to its track infrastructure in order to reduce costs and a similar arrangement must apply to stations in order to reduce costs for funders.

Are there any other comments you would like to make?

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