

Will Godfrey
Director, Economics, Finance and Markets



Paul McMahon
Director, Planning and Regulation

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Dear Paul

CP7 access charges discount policy

Thank you for sharing your CP7 access charges discount policy and for the conversations we have had on it. As you know we placed significant emphasis on supporting outcomes for freight and freight growth in PR23. We welcome that Network Rail is taking action to encourage growth for passenger and freight users during CP7 and support the intent of your discount policy in facilitating this.

As discussed, our view is that the discounts should be implemented by way of a supplemental agreement and not an overlay agreement, which is Network Rail's preferred implementation method. This is a discount scheme, which Network Rail is introducing as envisaged and permitted by the relevant legislation (Schedule 3 of The Railways (Access, Management and Licensing of Railway Undertakings) Regulations 2016). The discount scheme amends the applicable charges set out in the Track Access Contract for a specified period. Under the legislation amendments made to a train operator's Track Access Contract need to be approved by ORR.

We discussed Network Rail sharing with us its proposed amended wording to Schedule 7 of a train operator's Track Access Contract to give effect to this discount policy. Once the amended wording was agreed (including through consultation with industry) supplemental agreements could make use of the general approval, and we indicated that we were prepared to amend the general approval to accommodate this. These safeguards are there to ensure that parties to the contracts receive appropriate protections. They also provide visibility of contractual changes to support a regime that is fair, reasonable, transparent and non-discriminatory.

You have advised us that you will not implement the policy by way of a supplemental agreement and will use an overlay agreement. In doing so the terms of Network Rail's CP7 Access Charges Discount Policy and the associated discounts awarded through the policy are not enforceable for the reasons I have set out above. At this stage we do not intend to take further action. We will continue to monitor the evolution of the



discount scheme and if we become aware of any stakeholder concerns will review this further.

If you have any questions, please do not hesitate to contact me. A copy of this letter will be published on our website in due course.

Yours sincerely

Will Godfrey