



OFFICE *of the*
RAIL REGULATOR

**GUIDANCE ON THE APPROVAL OF
RAILTRACK'S TRACK ACCESS CHARGES
FOR INTERMEDIATE TRAFFIC**

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1. Guidance on track access charges for intermediate traffic

Introduction

1. In recent months the Regulator has been asked to approve, under section 18 of the Railways Act 1993, a small number of proposed track access agreements for "intermediate traffic". This is traffic, not provided for as "ancillary movements" under other access agreements, necessary for the operation of the passenger and freight railway but which does not directly generate additional revenue for the rail industry as a whole. Examples include:

- the transporting of rail vehicles between heavy maintenance depots;
- the operation of an infrequent train service for the purpose of maintaining drivers' route knowledge; and
- the transporting of rail vehicles to test facilities or the testing of rail vehicles on Railtrack's network.

2. Given the nature of intermediate traffic, this note sets out additional guidance on how the Regulator is currently minded to apply the criteria for approval of freight access charges set out in his publication "Framework for the Approval of Railtrack's Track Access Charges for Freight Services: A Policy Statement" to these flows.

Principles

3. Under section 4 of the Railways Act 1993, the Regulator has a duty, amongst others, to promote the use of the railway network for the carriage of passengers and goods to the greatest extent that it is economically practicable. In part this is achieved by ensuring that in accordance with the criteria referred to in paragraph 2 above and listed below, track access charges for freight services:

- should be greater than or equal to the avoidable costs incurred by Railtrack
- as a direct result of carrying that particular flow;

- should be less than or equal to the "standalone" cost which would be incurred by a notional efficient competitor¹;
- should not be higher or lower, after allowing for specific factors relevant to each case, than those for other operators or users to the extent that they risk significantly distorting competition between rail freight operators or users; and
- the structure of charges should broadly reflect the value to users of access to the rail network, and should enable Railtrack to recover its total freight-specific costs plus any expected contribution to the shared common costs of its passenger and freight services.

4. However in the case of intermediate traffic the Regulator is concerned that the direct beneficiaries of access might negotiate charges which are considerably higher than avoidable costs and do not necessarily reflect the value to the end users of access. The charges for these flows are unlikely to be capped by the standalone cost ceiling which was designed to protect high volume customers dependent on rail, or customers carrying high value traffic, from excessive prices. Intermediate traffic is usually low volume but at the same time the nature of some intermediate traffic means that it may also be dependent on rail.

5. In the long run charges for intermediate traffic which are significantly higher than the avoidable cost will have the effect of increasing the overall cost of a rail operation to the detriment of users of railway services. On the passenger side this could for example result in higher leasing charges from ROSCOs, on the freight side it is likely to deter the carriage of additional traffic by rail and may even lead to traffic which is currently being carried by rail being moved by road.

6. The number of flows carrying intermediate traffic is likely to be very small. However, by attempting to minimise the costs of railway operation, the Regulator believes that greater opportunities should be provided for new traffic to be carried by rail in the longer term: From this new traffic, which brings genuinely additional revenue to the railway as a whole rather than transfers within the rail industry, will arise the opportunity for benefit sharing between Railtrack and the operators. However the Regulator recognises that if charges were in all

¹ The concept and calculation of standalone costs is explained in section 3 of the Policy Statement.

cases equal to the avoidable cost, even where a higher charge would not necessarily price the flow off the network, this would remove any incentive on Railtrack to facilitate the carriage of intermediate traffic.

Conclusion

7. Consistent with the criteria which the Regulator has already published on freight track access charges, the Regulator has concluded that, following consultation with Railtrack, the charges for intermediate traffic should normally be at or slightly above a reasonable estimate of the avoidable cost for carrying that traffic.

Process

8. Railtrack currently supply with all non passenger track access agreements an avoidable cost calculation based on a methodology agreed by ORR. ORR will continue to use this as a basis for assessing whether the charge is compatible with the criteria in the Regulator's policy statement. In some cases this calculation may not provide an appropriate estimate of the costs incurred. The Regulator will therefore consider representations made to him by Railtrack on a case by case basis. Similarly if uncertainties arise over the classification of flows as intermediate traffic, the Regulator will be happy to provide advice to the relevant parties in advance of an access agreement being submitted for regulatory approval.

Implementation

9. This note sets out the approach the Regulator currently proposes to follow. The Regulator expects to review this guidance from time to time in the light of experience and of any views expressed to him by interested parties following publication of this guidance. Comments on this note are welcome and should be sent to:

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