

31 March 2004

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## **RAILWAY SAFETY CHARGE FOR 2004/05**

1. Further to your letter of 30 January 2004 and your email of 18 March 2004, this letter constitutes the Regulator's determination of the aggregate Railway Safety Charge for the purpose of paragraph 8.2 of Part 2 of Schedule 7 to the track access agreements with franchised passenger train operating companies ("TOCs"), for the year commencing 1 April 2004.

2. In his letter of 1 April 2003 to Network Rail Infrastructure Limited, Michael Beswick said that "the Regulator confirms that Network Rail should be able to recover all the expenditure that will be incurred by it in funding the RSSB budget (as approved by the Regulator) during the period to 31 March 2006 as an element of Network Rail's access charges." He also said that "there are a number of costs, expenses and liabilities ... which will or may be incurred by RSSB or by Network Rail or Railway Safety during the period prior to 31 March 2006 in connection with RSSB." He went to say that those "costs, expenses and liabilities ... incurred by Network Rail in years after 2002/3 ... should, subject to the Regulator being satisfied that they have been reasonably incurred, be recovered and reimbursed to Network Rail through the Railway Safety Charge for the year after that in which they have been incurred."

3. In his letter of 1 April 2003 to Rail Safety and Standards Board Limited ("RSSB"), Michael Beswick said that the Regulator "would not expect the Railway Safety Charge [for 2004/5] to be less than £38.1m plus allowance for inflation." In his letter of 30 June 2003 to Network Rail, Tim Martin said that "the Regulator expects that any further cost, expense or liability to Network Rail arising as a result of RSSB's VAT position will be taken into account in determining the Railway Safety Charge for 2004/05, or through the current interim review of Network Rail's access charges."

4. In your letter of 30 January 2004 you estimated the Railway Safety Charge for 2004/05 at £47,707,947.53, comprising the RSSB draft budget of £41.4m and the sum of £6,307,947.53 in relation to costs incurred by Network Rail as a consequence of setting up RSSB. In your email of 18 March 2004, you asked for a further £63,000 to be included in the latter set-up costs in relation

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to additional pension transfer shortfall costs, making a total for the Railway Safety Charge of £47,770,947.53.

5. In his letter of 20 February, Paul Plummer confirmed that there was an inter-company balance between Network Rail and Railway Safety of £5,557,000 and that Network Rail were “prepared to pay this balance to RSSB, provided that the Railway Safety Charge for this year is reduced by the same amount.” He also said that “as it is now not expected that Customs and Excise will allow RSSB to recover its input VAT, we agree that this will imply a change to RSSB’s budget [and] that this will lead to increased payments in 2004/05 from Network Rail to RSSB, and that these will be recovered through an increase in the Railway Safety Charge.”

6. On 22 December 2003, RSSB submitted its budget for 2004/05 for approval by the Regulator. The budget amounted to £41.4m, made up of £23.4m for core operating costs and £18m for research. Following consultation with SRA and HSE and having considered representations made by the members of RSSB the Regulator decided, in accordance with paragraph 6.2.3 of the RSSB Constitution Agreement, to approve the budget “with such amendments as he considers to be appropriate.” These amendments were: an increase in the core operating costs of £2m to reflect the determination of Customs and Excise in relation to RSSB’s ability to recover input VAT in the year 2004/05; and a reduction of £3m for research to reflect representations by SRA in relation to its own budget.

7. In the light of the above, the Regulator determines that £41,213,947.53 properly comprises such reasonable amount as Network Rail shall be treated as incurring under paragraph 8.1 of part 2 of Schedule 7 to the track access agreements with franchised passenger TOCs, in the year commencing 1 April 2004, in connection with its obligations under paragraph 6.2.5 of RSSB’s Constitution Agreement.

8. This letter has been copied to the managing directors of all franchised passenger TOCs, to Peter Hawthorne and David Waboso at SRA and to Steve Ives at HSE and will be placed on ORR’s public register.

**MICHAEL BESWICK**  
**Duly authorised by the Rail Regulator**  
**31 March 2004**