

You asked for views on criteria for compensation.

Can I confirm that ATOC content with the methodology for calculating compensation for the voluntary adjustment or surrender of access rights set out in paragraph 4.13 of the final conclusions. This methodology should be applied by an arbitrator when a train operator does not accept the offer of compensation made by Network Rail. The train operator is not bound to accept the arbitrator's decision, but Network Rail is.

This interpretation which is consistent with the flow diagram in Annex 4 – and is indeed consistent with the notion of 'voluntary surrender' – is not consistent with the drafting of clause 10.2 (c). This must be changed to make it clear that the arbitrator's decision is not binding on a train operator, but is binding on Network Rail.

I hope that this is helpful.

Regards

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