

18 April 2008

Andrew Eyles
Office of Rail Regulation
1 Kemble Street
London
WC2B 4AN

Freightliner Group Limited
Basford Hall
Off Gresty Road Crewe
CW2 5AA

Tel: +44 (0) 1270 452 406
Fax: +44 (0) 1270 452 455
Email: JonesT@Freightliner.co.uk
Web: www.freightliner.co.uk

Dear Andrew,

Network Code Part J - Review of use quota and use period

Thank you for the opportunity to respond to your letter dated 12th March 2008 in respect of proposed changes to part J of the Network Code. This letter forms the response of Freightliner Group Limited ("Freightliner"), incorporating Freightliner Limited and Freightliner Heavy Haul Limited. We apologise that this response is submitted after the deadline.

Freightliner would seek to encourage ORR to make changes to Part J, and specifically to UIOLI, which ensure that efficient use of the network is encouraged through the control of access rights. It is Freightliner's view that whilst some progress has been made by Network Rail removing under utilised rights there is still much capacity on the network that is not being effectively used.

We consider that in order to allow appropriate headroom to freight operators, consistent with their customers' requirements, the time period of 90 days should remain, since genuine use can fluctuate over a time period of this order. We are also of the view that any period shorter than 90 days will be difficult to administer. However, we concur with ORR that the number of movements required should increase, and propose that the standard should be amended from 1 train in 90 days to 10 trains in 90 days, at any given time. Such a change will we believe help prevent deliberate use of paths in order to retain them.

Freightliner does not have the capability to access such information about other operator's trains to provide specific evidence of any abuse of the current rules. Such information as ORR would require is available to Network Rail, and Freightliner consider that Network Rail should play a significant role in compiling evidence for submission to ORR, if and when such instances occur.

We have previously put forward a case for the introduction of "Strategic Freight Rights" whereby freight capacity could be held by Network Rail in a customer and freight operator neutral way. Freightliner believes that if there was a mechanism for holding future capacity on the Network this would encourage freight operators to give up under utilised capacity.

Further, Freightliner consider that ORR should consider not only the number of occasions on which a right is exercised, but the value of the usage of the right in terms of volumes of traffic moved - particularly where competing uses for network capacity exist. It is Freightliner's view that poorly patronised trains are no less inefficient use of network capacity than rights, which are infrequently exercised. We would like ORR to consider a new measure that also takes into account utilisation of trains run as well as the number of times they have run on the Network.

If you wish to discuss the foregoing with us, please do not hesitate to contact me.

Yours sincerely

Tom Jones
Senior Rail Strategist
Freightliner Group Limited