

Proposals for a Rebate Mechanism for investors in large scale network enhancements

Response from Rail Freight Group

February 2006

1. RFG is grateful for the opportunity to respond to this important consultation, and for the meeting arranged by ORR to discuss the content.
2. RFG welcomes these proposals as being an essential element in encouraging third parties to invest in the rail infrastructure and to ensure they are not disincentivised by fear of other companies having a 'free ride'.
3. These are difficult proposals so we strongly urge the ORR to keep the objectives firmly in sight whilst at the same time being conscious of concerns expressed here and by others.

Proposed Approach

4. We agree with the principles of the proposed approach set out in paragraphs 11 -13. However, we do not agree with the suggestion in 13(c) that an operator who has funded the enhancement will be exempt from the charge.
5. This could get very complicated; for example, if an operator who invests is exempt, why should not a customer who invests in the network have the same exemption for all trains to his or her facility who benefit from the enhancement.
6. We very much prefer a system where all users who benefit from an enhancement pay the rebate to Network Rail who would then distribute it to those who have invested, including train operators and customers. This would mean that the proposal in 14 (b) would have to be altered.

The average cost of the investment

7. As we pointed out at the ORR meeting, we do not agree that the investment costs should be defined as the cost paid to Network Rail. As the ORR will be aware, some investments on the network are funded directly by a third party to consultants and contractors, even though the enhancements may subsequently handed over to Network Rail. We believe that the total such cost should therefore be considered.

Capacity measure

8. As the ORR document states, this is a difficult issue, but it is important to keep calculations simple and we suggest that the proposals set out in

paragraph 16 are a sound basis for proceeding.

Who pays?

9. Looking at the scenarios in paragraph 18, we are firmly of the opinion that all users who benefit from the enhancement, present and further, should pay the rebate. It may seem unfair to those who already have rights, but it is even more unfair that those who come last pay higher charges than those with established rights. If the enhancement is for capacity, then all users should pay; if it is for gauge or other capability that only some users would benefit from, then only those users would pay. This, as the ORR paper suggests, we believe that the option for all users who benefit to pay is the one to adopt.

Implementing charges

10. We believe that it would be unacceptable to wait to apply the rebate until the next periodic review (paragraph 26). A means of activating a rebate mechanism through Part G of the Network Code would appear to be the best way forward.

Conclusion

11. As this work develops, we would welcome some worked examples from the ORR to illustrate how this rebate might work in practice. The provision of such examples could give comfort to those currently expressing concern about the proposals.
12. We urge the ORR to take these proposals forward without undue delay since we believe that they will bring comfort to investors and thereby increase the level of private sector investment in the rail infrastructure.