

GB Railfreight Ltd

GBRf Response for ORR Consultation on Implementing Regulation on Service Facilities

Dear Gordon,

With regard to ORR's draft consultation on the *Implementing Regulation on Service Facilities* consultation, GB Railfreight has the following comments to make:

- 1) GB Railfreight does not believe that the definition of "service facility" is clear enough or, indeed, wide-ranging enough. "Service Facility" ought to state 'any rail-connected facility or terminal capable of loading and unloading goods carried by rail and/or storage of those goods, or which can be made capable of carrying out those functions'. Specifically, GBRf would like to see equivalent access rights for all FOCs into all terminals and facilities whether they be privately-owned or publicly-owned (i.e. by Network Rail) unless there are genuine reasons why that cannot be the case (e.g MoD sites or nuclear property, for example).

- 2) There needs to be very clear mechanisms for ensuring non-discriminatory access and charging regimes into any service facilities. The EU documentation makes mention of items for which a charge can be made and also the requirement to avoid hidden discounts. All facility operators should be required, if necessary, to explain and justify their charging regimes, not only for the access element but also for any specific services provided within those terminals – this is both for themselves and other operators and the comparisons must be transparent.

- 3) There must also be a requirement for any services provided to be on an equivalent basis. There cannot be a scenario whereby the supplier of a service facility charges different rates for itself (as an operator, for example) and a competing company requiring exactly the same services. There cannot

be a position whereby, for example, a FOC-owned terminal can find a way to unload and re-load its own trains around in 3 hours but offer another operator 5 hours for turning round a train or, for example, to provide fuel to its own locos at 03.00 but to oblige others to wait until 09.00.

- 4) One of the proposed reasons for refusal of access is that a facility operator might need to make 'investment' however please note:
 - a. There is no threshold for what the investment might need to be. It may be that a Facility Operator might refuse access because he'd have spend £1000 on a site that should actually be available. There needs to be clarity on this topic.
 - b. Contributions by the party requesting the service are not even contemplated. So if, for example, a Facility Operator were to sit of a 30 acres piece of land and not permit a Requesting Party access to the land because to do so would need a new crossover and some renewal of line, there is no ability for the Requesting Party to offer to put in the new trackwork. This needs amending. Certainly, there is a requirement for service facilities to be maintained and be made available for use but legislation mustn't block other options.

The effect of this consultation on port operators and on those running inland terminals might be seen as unwarranted interference but that's precisely why it is necessary - to prevent local or regional monopolies stifling the fair and competitive growth of freight traffic.

Regards,

Ian Kapur.
Head of Capacity Planning,
GB Railfreight Ltd.,