# Freight Customers:
# access rights on Network Rail's network

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# Freight Customer Track Access Contracts

> Why was this idea developed?

> ORR's response

  > Consultation document – September 2009

    > Use existing freight model track access contract with revisions

    > Options in the way the freight customer access document could be structured

  > Conclusions document – September 2010

    > Reflects on all consultation responses to inform our policy

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# Freight Customer Track Access Contracts

> **Key points in the conclusions document**

> > What is a customer…..

> > The structure of the Freight Customer Track Access Contract (FCTAC)

> > The relationship between the FCTAC and the Freight Operating Company Track Access Contract (FOCTAC)

> > How access rights are used by a freight customer's 'FOC of choice'

> > The freight customer's role under the FCTAC

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# Freight Customer Track Access Contracts

- The structure of the Freight Customer Track Access Contract (FCTAC)

- Model clauses - *front part*

  - No Conditions Precedent; e.g. usual provisions on safety and licensing don't apply to a freight customer

  - Clause 5

    - how the access rights can be exercised; the 'draw down mechanism'

    - Timetable Agent

  - Clause 11

    - Claims Allocation and Handling Agreement: deleted as freight customers not party to it

    - Liability – annual cap of £5M; access rights not be made available to the freight customer

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# Freight Customer Track Access Contracts

> **FCTAC**

>> Schedule 1– contract particulars

>> Schedule 2 – information to assist making access proposals or Train Operator Variation Requests

>> Schedule 3 – forms of notices (hand out)

>> Schedule 4 – variations to services
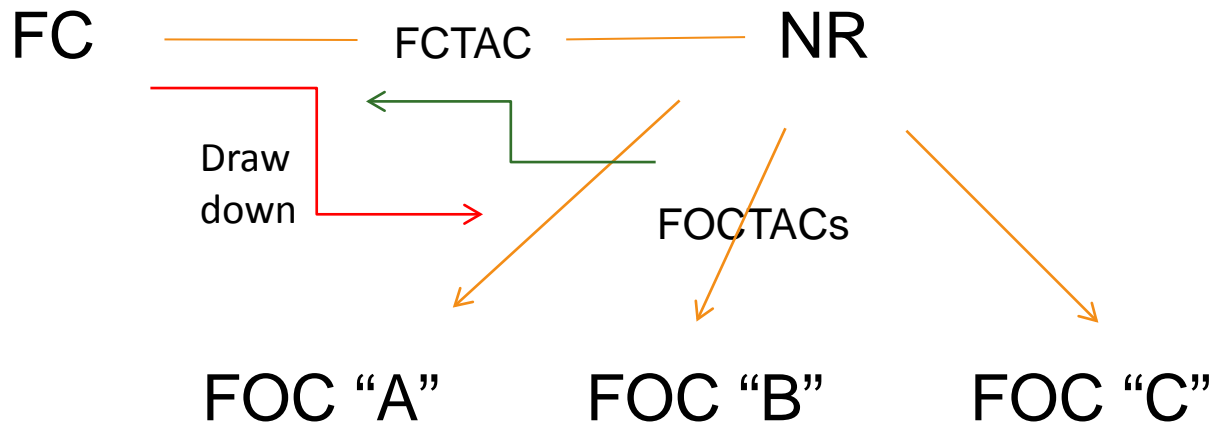
>> Schedule 5 – services: the Rights Table

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# Freight Customer Track Access Contracts

> FCTAC

>> Schedule 6 – events of default

>> Schedule 7 – access charges

>> Schedule 8 – (not used)

>> Schedule 9 – limitation of liability

>> Schedule 10 – network code modifications

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# Freight Customer Track Access Contracts

> The relationship between the FCTAC and the Freight Operating Company Track Access Contract (FOCTAC)

FC ——— FCTAC ——— NR

Draw down

FOCTACs

FOC "A"    FOC "B"    FOC "C"

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# Freight Customer Track Access Contracts

> How a FC can obtain a FCTAC (and access rights)

>> Approach Network Rail

>> Agree the type of access right/s and its/their characteristics

>> General approval/specific approval

>> Consultation

>> Submission to ORR

>> Many of the above processes are managed by Network Rail

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# Freight Customer Track Access Contracts

> **How a FOC obtains a FOCTAC**

> > Approach Network Rail

> > General approval/specific approval

> > Consultation

> > Submission to ORR

> > Many of the above processes are managed by Network Rail

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# Freight Customer Track Access Contracts

> How access rights are used by a freight customer's 'FOC of choice'

>> The draw down mechanism will enable the FC to convey access rights directly to a FOCTAC

>> They can then be 'exercised' by that FOC to transport the customer's goods

>> If the FC decides to change its FOC it can reclaim the access rights by issuing a revocation notice

>> It can then draw them down to its new FOC of choice

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# Freight Customer Track Access Contracts

> **The draw down and revocation notices**

>> Template format contained in Schedule 3 of the FCTAC

>> Contain Rights Table which will replicate (some of) the access rights from the FCTAC

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# Freight Customer Track Access Contracts

> The FC's role under the FCTAC

> > Awareness and knowledge of the engineering access statement and timetable planning rules

> > Deal with draw down mechanism and revocation notices – familiar with Rights Table

> > Under the FCTAC the FC is able to appoint an Agent to deal with such issues

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# Freight Customer Track Access Contracts

> ## The FOCTAC

>> Like the FCTAC, it's based on the ORR model freight track access contract

>> Provision which recognises the draw down mechanism

>> Indemnity against multiple liability

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# Freight Customer Track Access Contracts

> ## Network Code

>> 'final conclusions' publication identifies changes to Network Code undertaken to recognise FCTACs and FOCTACs

>> In particular: re the FCTAC

>>> Part J

>>>> UIOLI

>>>> Freight transfer mechanism !!

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# Freight Customer Track Access Contracts

- ORR's web page: Access for Freight Customers

- [http://orr.gov.uk/what-and-how-we-regulate/track-access/track-access-process/how-to-apply-for-track-access/access-for-freight-customers](http://orr.gov.uk/what-and-how-we-regulate/track-access/track-access-process/how-to-apply-for-track-access/access-for-freight-customers)

  - Criteria and Procedures for the approval of track access contracts – Chapter 9

  - Model contracts (FCTAC and FOCTAC)

  - Freight General approval

  - FCTAC - Conclusions document 15 September 2010

  http://webarchive.nationalarchives.gov.uk/20140113074601/http://www.rail-reg.gov.uk/server/show/nav.2299

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