

## Response to consultation: Network Charges – A consultation on how charges can improve efficiency

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### Instructions for Responding to the Consultation

We would appreciate it if long responses had a summary of the key response points.

#### Summary of key response points:

Agree that the industry could benefit from a fuller understanding of how Network Rail's costs are accumulated but this should not extend to reflecting them in charges until they are more fully understood.

All operators have very limited ability to incentivise Network Rail, due to the unusual customer/supplier relationship. The lack of take-up of Route Efficiency Benefit Share in Control Period Five should be seen as indicative of both the lack of appetite for similar mechanisms and operators' inability to incentivise Network Rail.

Arriva supports the Regulator waiting for the Shaw Report to be published before undertaking further work on this stream.

### Summary of consultation questions

Chapter 1 Questions	Response
Q1. How much does Network Rail's structure of charges matter today?	
Q2. What issues could a new structure address?	All charges are primarily an administrative function and do not affect day to day behaviours. Some, such as capacity charge and variable charge, will be included in any evaluation of timetable changes, but rarely would this influence any decisions. Much greater costs are staffing (drivers and conductors), rolling stock and fuel costs. A better understanding of cost attribution could lead to charges having

	a wider and greater influence on behaviours and decision-making.
Q3. Can you provide examples of behaviours that would change within your organisation or elsewhere in the rail industry with an improved structure of charges?	Franchised operators might challenge and engage Network Rail in different ways if there was a cost benefit of doing so. Of course there are already many benefits to operators of engaging with Network Rail at all levels which can improve customer service, performance and general operations, and also limiting the impact of Network Rail's maintenance and renewal activities. None of this would change with an improved structure of charges but it might help operators to target their efforts for the greatest benefit to customers.

<b>Chapter 2 Questions</b>	<b>Response</b>
Q4. To what extent does the use of scenarios, in the form of the RDG 'states of the world', help to understand the likely effectiveness of future charging structures?	Useful thought exercise; not keen on the use of the word 'dynamic' to describe the railway as this suggests uncertainty: more exposure to track access charges and flexibility year-on-year (unpredictability) in charging could lead to reluctance to invest.
Q5. Are the high-level gaps (in Figure 4) a good starting point for developing solutions? Would you have expected to see any other high-level gaps and, if so, what are they?	They seem accurate and reasonable.
Q6. Do the assessment criteria accurately reflect the main factors we should consider for assessing the impact of options?	

<b>Chapter 3 Questions</b>	<b>Response</b>
Q7: To what extent do the packages of options represent the key strategic choices available to improve the existing charging structure?	Some elements are workable (such as transparency of accumulated fixed costs). Work on the value-based capacity package should rightly be put on hold for PR18 as it will add little value within the current industry structure, particularly for franchised operators. Overall we are unsure whether amending the existing charging structure will incentivise Network Rail to reduce its costs.

<p>Q8. Would you expect the infrastructure costs package to deliver more benefits than the value-based capacity package at this stage and, if so, why?</p>	<p>Yes – franchised operators have limited options to alter their services for a variety of reasons and so would generally be unable to respond to pricing signals based on relative values of routes.</p> <p>More clarity on infrastructure costs should drive better decision making, not just where it is translated into charges. This could be particularly useful for funders. However we are also mindful of the fact that infrastructure costs if applied geographically could dramatically shift the current distribution of costs across the industry (e.g. rural routes will typically have lower passenger revenues but higher fixed costs such as embankments, tunnels and coastal defences). This could be of particular concern to funders. We are concerned that ORR has underestimated the ability of operators to control certain costs (such as train km) and so their likely influence on Network Rail.</p>
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<b>Chapter 4 Questions</b>	<b>Response</b>
<p>Q9. We welcome your views on our proposal to prioritise further development of the infrastructure costs package.</p>	<p>Agree the industry could benefit from a fuller understanding of how Network Rail’s costs are accumulated as “an end in itself” (p12) but this doesn’t necessarily mean passing them on. It is not clear how the industry would understand whether all fixed costs are efficiently incurred or whether a proportion of those costs is the result of poor Network Rail planning, resource inefficiencies, etc. While government has announced its intention to channel more of the Network Grant through train operators, this is a) not yet committed and b) excludes FOCs and Open Access. Putting the latter at open risk of incurring changing costs disincentivises competition.</p>
<p>Q10. What costs and benefits do you see with the infrastructure costs package? Do you think our draft impact assessment is missing any significant impacts or has misrepresented any impacts?</p>	<p>Operators have very limited control of Network Rail &amp; Network Rail projects – e.g. accountability, risk. If operators are required to pay for an enhancement that will deliver an ongoing cost saving what happens when Network Rail defers the work and so the saving doesn’t materialise? Will operators be liable for the continued high usage costs even if the deferral of the scheme was not under operators’ control?</p> <p>The range of costs that can be attributed is likely to be arbitrary and could leave a large number of ‘common costs’. Page 15 gives the example of platform lengths which would be an ‘avoidable cost’ and so able to be allocated: presumably all operators using the platform would pay the same for the minimum length of train that operates, with different operators then paying a proportional cost over and above this based on the longest train that they operate. Allocating costs to activities in this way would be accurate but it is difficult to see how such cost allocation could be administered efficiently, and what benefits it would really bring. ORR’s comparison of current and potential charging structure (Figure 6) suggests that half of all Network Rail’s</p>

	<p>costs could be attributed fixed costs which, if disaggregated to a meaningful level to drive behaviours at a local level, could be many thousands of charges.</p> <p>More work might need to be done to understand Network Rail's procurement processes and resourcing decisions which are a major factor governing costs. Network Rail's own internal processes and accountability are likely to play a greater role in influencing behaviours than access charges.</p>
<p>Q11. To what extent do you think the benefits of this package can be realised through more information, rather than through the use of charges?</p>	<p>This is not clear. If Network Rail will ultimately receive the same income anyway then there is no incentive on them to act, which is a more fundamental question with the set-up of the industry. Risk would need to be put onto Network Rail to encourage it to understand its costs and to reduce those costs. This might help to incentivise Network Rail as a monopoly supplier.</p> <p>Paragraph 87 makes reference to operators incurring one-off charges that will be used to train industry professionals to familiarise themselves with the new charging structure. Can the ORR expand on this please?</p> <p>Realistically, given that most franchises are now (or will be) fixed for parts of CP6 it would seem logical to start with information-only in CP6 and consider converting that into cost-reflective charges for CP7, which would allow time for DfT, Welsh Government and Transport Scotland to consider whether they wish to expose future franchises and concessions to increased risk.</p>

<b>Chapter 5 Questions</b>	<b>Response</b>
<p>Q12. We welcome your views on our proposal not to prioritise further development of options based on the value of capacity.</p>	<p>We agree this would be too complex to calculate accurately, especially considering the relative importance of commercial and societal benefits of the railway across the network and even from one train to another, and there are better ways of managing capacity that could be explored before potentially pricing people off the network which could act as a barrier to entry into the market.</p>
<p>Q13. What costs and benefits do you see with the value-based capacity package? Do you think our draft <a href="#">impact assessment</a> is missing any significant impacts, or has misrepresented any impacts?</p>	<p>The paper has assumed that only charges will influence capacity usage. In the example outlined in paragraph 107 Network Rail's application of the Decision Criteria in Network Code Part D should be adequate to resolve the issue.</p>

Q14. Would you expect a better understanding of costs to be an essential precursor to value-based charges?	Yes
Q15. To what extent do you think the benefits of this package can be realised through more information alone, without passing that into charges?	A better understanding of available capacity can only help planners and the industry understand what needs to be done to maximise use of the Network.

<b>Chapter 6 Questions</b>	<b>Response</b>
We welcome your views on our proposal to develop the package of improvements to current short-run charges further.	We note that the failure of REBS is not mentioned. We would like to understand what ORR feels it has learnt from this.
Q16. What options would you expect to see in a long list of improvements to Network Rail's short-run variable charges?	
Q17. What options do you see as a priority for this package?	
Q18. What costs and benefits do you see with this package?	

<b>Chapter 7 Questions</b>	<b>Response</b>
We would welcome comments on how charges might apply to open access in future. In particular, we would welcome comments on:	Please see Arriva UK Trains' separate response from its open access operators.
Q19. whether open access operators should face charges implemented under the infrastructure costs package;	
Q20. what forms of adjustments to charges might be appropriate for open access operators, relative to franchised operators;	

Q21. how current incumbent open access operators should be treated; and	
Q23. Would you like to see either of the complexity options developed further?	The idea, in paragraph 175, of a track access charges calculator is an excellent one and we fully support its development, in addition to the introduction of a 'complexity test' (paragraph 177).
Q24. Are there other options you would like assessed to reduce complexity?	
Q25. What costs and benefits would you expect with these complexity options?	

<b>Chapter 8 Questions</b>	<b>Response</b>
Q26. In chapter 8, we started to highlight issues associated with implementation of a new charging structure and potential actions to alleviate negative impacts. Do you have any views on options for implementing a new structure and what would be the impacts of these options?	Currently costs are generally predictable/forecastable across the length of a contract which allows franchise bidders to plan with a reasonable degree of certainty. Consideration must be given to the effects on this of changes to the charging structure.
Q27. We understand the structure of charges has the potential to impact different groups in different ways. In developing the options in this consultation (particularly in the draft impact assessments), have we drawn out the implications for different groups? Please explain your response.	We believe so for some elements. We would like to understand in more detail any potential effects of further alliancing and benefit share between individual operators and routes and the negative impact that this could have on cross-route operators such as CrossCountry, and what measures might be put in place to ensure that such arrangements are not anti-competitive.

If there is anything else regarding the current structure of charges that you would like to feedback to the Office of Rail and Road, please include this in your response.

### How to respond

We would like your views so please get in touch by responding to this consultation by **4 March 2016**. You might find it useful to use this pro forma to record your responses. Please send responses to: [Orr.Structureofcharges@orr.gsi.gov.uk](mailto:Orr.Structureofcharges@orr.gsi.gov.uk).