



# Freight Customer Panel

## Themes and Issues

4 March 2015

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### Summary

The freight customer panel is part of ORR's wider commitment to engage directly with freight customers. The panel provides a structured forum for engagement and helps to ensure that our policies and regulatory decisions take into account the commercial environment that freight customers work within. The panel members will assist us by contributing views, expressing opinions and advising us on freight customer interests or issues.

This note summarises the main themes and issues that were discussed at the first meeting of the Freight Customer Panel. The meeting was chaired by John Larkinson, Director of Economic Regulation, at ORR.

### Themes

1. The panel's discussion focused on:
2. *Freight Customer Track Access Contracts* – freight customer track access contracts are also known as 3<sup>rd</sup> party freight access contracts. These are model track access contracts between Network Rail and freight customers which are approved by ORR. They enable freight customers to hold their own track access rights, and provide flexibility for freight customers who wish to choose and easily change a freight operating company to haul their traffic.
3. *Strategic freight network (SFN) fund* –The SFN fund has nine objectives that are part of the longer term vision set out by DfT, which is broadly designed to optimise the freight performance of the intensively utilised mixed-traffic rail network, allowing the efficient operation of more, longer and selectively larger freight trains. The SFN fund is governed by an industry-wide steering group, chaired by Network Rail.
4. *PR18 Structure of charges review* – In our PR13 final determination we committed to working with industry to conduct a review of Network Rail's structure of charges. The

structure of charges is an important part of the framework for using the national rail network. It is the mechanism through which Network Rail recovers its costs from users of its network. This means that it affects the costs faced by franchise, freight and open access train operators. The way in which Network Rail's charges are structured also has the potential to affect how train companies and Network Rail interact and is one tool available to better align the incentives faced by all parties in the rail sector, which will ultimately benefit rail users and those funding the railway.

## **Issues discussed:**

### *Item one – Freight customer track access contracts*

5. The relationship between the Freight customer track access contract (FCTAC) and the Freight Operator track access contract was explained, alongside the process to obtain these contracts.
6. Freight customers can obtain their track access contracts from Network Rail and they can secure them quickly under general approval. The draw down mechanism enables a freight customer to convey access rights directly to a freight operator company track access contract. They can then be 'exercised' by that FOC to transport the customer's goods. If the freight customer decides to change its FOC it can reclaim the access right by issuing a revocation notice and it can then use the draw down mechanism to arrange access rights with its new FOC of choice.
7. One of the freight customer panel members shared his company's experience and reasons for applying for a freight customer track access contract (FCTAC). He explained that the company runs over fifty sites that enter the railway and saw having a FCTAC as a way to support big investment teams. Rail is, however, only a small part of their logistics and a lack of a rail team, including train planners within the company can make the management of rail quite daunting. It is early days in the company's exploration of the FCTAC and there will be further discussions as to what the next steps will be.
8. It was suggested that the FCTAC gave early certainty around available paths particularly as customers move from the traditional model of securing capacity through committed volumes in FOC contracts through static origin and destination points. Customers wanted more flexibility.
9. From the intermodal context terminal access was said to be more critical than track access, with lack of transparency about capacity at terminals being cited as an issue.

It was highlighted to the panel that freight customers can make an access appeal under the current regulations<sup>1</sup> and have their own contract rights into terminals.

10. It was noted that there has been progress in FOCs handing back network paths to Network Rail, some of which is being incorporated back into 'white space on the graph', meaning an increase in strategic capacity on the network.
11. There was also some speculation amongst panel members as to how customers from different sectors would interact in the operation of FTAC and whether the differing characteristics of each sector would create some tension in the system. A general view was expressed, however, that Network Rail's processes and data appear to be opaque around the identification of paths and;
12. The relationship between Network Rail and freight customers is sometimes difficult to define. It was highlighted that the freight team within Network Rail were very helpful but clearer guidance would make expectations between the freight customer and Network Rail's role in terms of their relationship with the end customers easier. This had to be addressed as customers take on more of the cost/risk of a direct relationship with Network Rail from the FOCs.

*Item two – strategic freight network (SFN) fund*

15. The origins and background of the strategic freight network fund was explained. Its main focus is on allowing the efficient operation of more, longer and selectively larger freight trains.
16. The 9 objectives of the SFN fund were welcomed and were broadly agreed with. It was commented that Network Rail had done well around train length and gauge but there was still progress to be made. There have been some problems with NR delivered projects on time and on budget. One factor is that some projects have been planned around other major upgrades which have sometimes complicated delivery. When projects in the fund over spend this will have an impact on the funds available for other schemes within the fund.
17. Network Rail overruns against its committed milestones can result in huge disruption to business and there is a call for Network Rail to be more realistic with its delivery plans and freight customers say this would be enable them to effectively plan their business around timescales that were achievable.
18. It was noted that there has been on-going improvement in the governance process and reporting for the funds which enabled a move away from micro-management.

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<sup>1</sup> Guidance on Appeals to ORR under the Railways Infrastructure (Access and Management) Regulations 2005 (March, 2006) [http://orr.gov.uk/data/assets/pdf\\_file/0018/1692/275.pdf](http://orr.gov.uk/data/assets/pdf_file/0018/1692/275.pdf)

19. SFN fund transparency was said to be key particularly in terms of supporting third party investment in freight and the SFN should be delivered in ways that facilitates this.

*Item four – structure of charges review*

20. The presentation on the structure of charges review described ORR's proposed approach to the review, including a proposed framework of charging aims and objectives, and high level timescales.
21. FTA gave their perspective on the review and said that they wanted to see a process that managed uncertainty around changes to the charging structure. FTA spoke of the last charging review and the damage it caused end users, especially given the industry reality of 10-30 year supply chain investments.
22. FTA said that it wanted to see that charging was matched with efficiency and innovation and also questioned whether we needed to look at freight in the longer term as opposed to the five year control period.
23. RDG's own review of charges was noted by freight customer panel members as not being fully visible or transparent to the wider industry. Members said that they would welcome more involvement in the consideration of the future charging structure and hoped that the ORR's charging review will seek to engage them fully as thinking develops.