

Ben Worley  
Regulatory Economist  
Network Rail Infrastructure Limited  
Kings Place  
90 York Way  
London N1 9AG

**DB Schenker Rail (UK) Ltd**  
2<sup>nd</sup> Floor McBeath House  
310 Goswell Road  
London EC1V 7LW

**Nigel Oatway**  
**Access Manager**

Telephone: +44 (0)1302 577010  
Fax: +44 (0)20 7833 8449  
Mobile: +44 (0)7801 905240  
[nigel.oatway@dbshenker.com](mailto:nigel.oatway@dbshenker.com)

11 February 2013

Dear Ben,

## **CONSULTATION ON THE COAL SPILLAGE CHARGE (CSC) AND THE COAL SPILLAGE REDUCTION INVESTMENT CHARGE (CSRIC)**

This letter contains the response of DB Schenker Rail (UK) Limited ("DB Schenker") to the consultation entitled "*Consultation on the Coal Spillage Charge (CSC) and Coal Spillage Reduction Investment Charge (CSRIC)*" issued by Network Rail on 18 December 2012.

### **General Comments**

#### *Coal Spillage Charge ("CSC")*

1.1. There are many policy changes being contemplated by ORR across PR13 as a whole that will have a significant and adverse effect on the financial risk faced by freight operators. These include the introduction of a freight specific charge (in addition to the retention of the freight-only line charge), the prospect of an average rise in variable track access charges of 23% and potential damaging effects from increases in capacity charge rates and from a tilt in the balance of financial risk inherent in the Schedule 8 performance regime towards freight operators. These concerns have been exacerbated further as a result of Network Rail's proposals set out in this consultation document to increase significantly the Coal Spillage Charge by around 120%.

1.2. DB Schenker acknowledges that the aim of the CSC is to recover the costs Network Rail incurs as a result of coal spillage on its network. It also acknowledges that these costs should be recovered from the freight operators of the services causing the spillages. However, DB Schenker is concerned that the level of costs attributed to coal spillage by Network Rail is considerably overstated.

1.3. Despite the:

- average annual number of coal spillage related points failures (used as a proxy for the wider issue of coal spillage across the network) having fallen from the number used to determine the level of CSC for CP4;

- expectation that the volume of coal transported by rail will continue to fall over CP5; and
- investment undertaken by freight operators, terminal operators and coal suppliers & forwarders in equipment (including new wagons) and practices designed to reduce occurrences of coal spillage on the network;

DB Schenker is extremely concerned to note that Network Rail's initial cost estimate of coal spillage for CP5 has increased dramatically over the cost determined by ORR for CP4. DB Schenker understands that ORR's determined cost of coal spillage for CP4 drew heavily on a detailed assessment of Network Rail's initial cost estimate undertaken by ORR's Reporters who recommended that that initial estimate be reduced from £7m to £4.1m (further reduced by ORR to £2.4m to reflect end of CP4 efficiency).

1.4. DB Schenker notes from the consultation document that the increases in many elements of Network Rail's cost estimates are solely based on Network Rail's judgement, views or experience without any further explanation or detail. Given that the CSC represents a significant proportion of a freight operator's track access charges, DB Schenker would have expected to see Network Rail's proposals adequately explained and reinforced by factual information. The fact that they are not, causes DB Schenker much concern.

1.5. If Network Rail considers that its coal spillage costs have increased so dramatically despite the investment in coal spillage reduction equipment and practices which are seen to be working well, DB Schenker considers that, as happened when estimating coal spillage costs in CP4, Network Rail's assumptions, methodology and results should be independently verified.

#### *Coal Spillage Reduction Investment Charge ("CSRIC")*

1.6. Given the surplus of monies remaining available from the CSRIC collected by Network Rail over the first two years of CP4, together with the number of schemes coming forward having dropped from the initial influx of applications for funding when the charge was first introduced in 2009/10, DB Schenker supports Network Rail's proposal to discontinue the CSRIC in CP5.

#### **Network Rail's Specific Questions**

*Q1. What is your view on potentially recovering coal spillage costs through any new freight-specific charge, rather than a separate CSC?*

2.1. DB Schenker notes that ORR has determined in its recent document entitled "*Rail Freight: conclusion on the average variable usage charge and a freight specific charge*" that a freight specific charge should only be levied on the ESI Coal, Iron Ore and Nuclear market segments. Therefore, as a freight specific charge is not to be levied on services conveying coal for other purposes, DB Schenker considers that it would be impractical to recover the costs of coal spillage through the freight specific charge.

*Q2. What is your view on the methodology and assumptions that have been applied in order to initially estimate coal spillage costs?*

2.2. DB Schenker is extremely concerned to note that despite the number of factors (see paragraph 1.3 above) indicating that the annual average of the amount of coal spillage has reduced when compared to the level used to set the CSC for CP4, Network Rail's initial estimate of CP5 coal spillage costs has increased substantially over that determined by ORR for CP4 (£5.6m compared to £2.4m with end CP4 efficiency). Therefore, as stated in paragraph 1.2 above and for the reasons set out in answer to this question, DB Schenker is concerned that the level of costs attributed to coal spillage by Network Rail is considerably overstated.

2.3. DB Schenker notes that Network Rail's initial estimate of the cost of coal spillage is comprised of four categories:

- Cost of clean up and delay minutes
- Cost of Rail Vac, Tube Cube and manual interventions
- Cost of point end service life reductions; and
- Cost of Plain Line service life reductions

*Clean up and delay minutes*

2.4. In section 4 of the consultation document, Network Rail highlights the fact that in respect of estimating the costs of coal spillage by reference to the level of relevant points failures, DB Schenker has already challenged what constitutes a relevant points failure due to coal spillage and, in particular, that only points failures solely attributable to coal spillage should be taken into account. Network Rail has, however, rejected this view and instead believes that all points failures should be included in any recalibration of the CSC where the presence of coal has been noted either as a contributory factor or a determinant one. Even if DB Schenker was to accept Network Rail's alternative view, DB Schenker would certainly not expect the entire costs of any points failures in cases where the presence of coal was a contributory factor, rather than a determinant one, to be recovered through the CSC as it appears Network Rail proposes.

2.5. From the annual information received from Network Rail on the detail of each points failure where coal has been noted as a contributory factor, it is clear that there are also many other causes that have contributed to those points failures that are nothing to do with coal spillage. By way of a few of the many examples:

- *"Detail: No reverse on 4256 points. Cause: A&B end lock slides and lock arms dry and contaminated with grit, sand and coal dust."*
- *"Detail: Difficult getting normal on 17B points. Cause: Coal dust and gravel in slidechairs."*
- *"Detail: 2293 points no reverse. Cause: Compact ice and coal in the heel end."*

- “Detail: AW14B points. Cause: No fault found although some coal dust in switches and slides.”

2.6. In cases where there have been other factors notified as contributing to any points failures allocated to coal spillage (such as the examples listed in paragraph 2.4 above), DB Schenker considers that only a proportion of the costs involved should be taken into account in Network Rail's CP5 estimate of coal spillage costs.

2.7. DB Schenker is also not convinced that Network Rail's estimate of 178 points failures is an appropriate figure to use as the basis for estimating the CP5 coal spillage costs. Whilst DB Schenker acknowledges that 178 represents the average of the annual number of points failures over the first three years of CP4, this average has been inflated by the figure of 231 points failures attributed to coal spillage during 2011/12. Both Network Rail and freight operators agreed that was an anomalous result when viewed against the investment in cleaning equipment which is seen to be working well. One factor that may account for a proportion of the increase however, was the rise in coal volumes conveyed by rail during that Financial Year.

2.8. The previous 2 Financial Years (i.e. 2009/10 & 2010/11), however, saw totals for points failures attributed to coal spillage of 154 and 150, which DB Schenker considers is far more reflective of the likely long term average, particularly given that coal conveyed by rail is expected to decrease over CP5 with a number of coal fired Power Stations either closing or moving to alternative fuels. DB Schenker submits, therefore, that 150 would be a more appropriate figure to use as the basis for estimating the costs of coal spillage for CP5.

2.9. In respect of the clean up and delay minutes element, it appears Network Rail intends to retain the cost of £660 for remedying a points failure that causes delay minutes on the one hand but proposes to increase the cost of remedying a points failure that does not cause delay minutes on the other by 56% (£320 to £500). It is stated in the consultation document that this increase is based on expert judgement but it appears, however, merely to reflect the additional cost of including new ballast at £90 (doubled).

2.10. In the absence of any explanation behind the expert judgement being set out in the consultation document, DB Schenker has studied the annual information provided by Network Rail to relevant freight operators in respect of each individual points failure that has been attributed to coal spillage. This detailed information, which specifies the type of each points failure, the likely cause and the remedial action taken, does not appear to note any instances where new ballast has been provided. In the majority of cases, any coal contamination contributing to the particular points failure relates to the switchblades and other moveable parts of the points and will not, therefore, require any new ballast to be provided. DB Schenker, therefore, questions the inclusion of this particular element and believes it should be removed from both scenarios (i.e. the £660 rate and the £500 rate).

*Rail Vac, Tube Cube and manual intervention*

2.11. DB Schenker has a number of concerns with this cost category. Firstly, it is stated by Network Rail that Rail Vac is deployed at locations that receive repeated coal related points failures and, in this respect, Network Rail's Wales Route deploys Rail Vac on average of 14 times per annum and its LNE Route 12 times per annum. Having analysed the detailed information provided by Network Rail in respect of coal related points failures by each Route, there is only one set of points in Wales that has been subject to repeated failures. This set of points, which is located at Aberthaw, had failures attributed to coal spillage over the last 3 years of 9 times (2009/10), 12 times (2010/11) and 8 times (2011/12). DB Schenker, therefore, submits that the stated number of 14 Rail Vac deployments per year in Wales must also include deployments for other purposes not related to coal spillage.

2.12. In addition, on the LNE Route, the points subject to repeated failures tend to be in relative close proximity to each other which is presumably why ORR's Reporters when looking at this issue in respect of the CP4 CSC, came to the conclusion that a Rail Vac could treat two sets of points per deployment. DB Schenker considers that Network Rail has not offered any detailed justification as to why its efficiency in this respect should be reduced in CP5 to treating only one set of points per deployment, particularly as this leads to a consequent increase in costs to be recovered through the CSC.

2.13. The information in paragraphs 2.11 and 2.12 above casts strong doubt on the number of Rail Vac deployments used by Network Rail (particularly in respect of its Wales Route) in its CP5 cost estimates (i.e. 26). DB Schenker submits that this number should, therefore, be reviewed and reduced accordingly. DB Schenker would also like to see a breakdown of the costs of deployment of the Rail Vac at £30,000 per occasion and the reasons why this cost appears to have risen by 20% over the level assumed for CP4.

2.14. It is stated in the consultation document that the costs of deploying Tube Cube and carrying out manual interventions were not recovered through the CSC in CP4 but Network Rail proposes recovering them through the CSC in CP5.

2.15. In respect of the Tube Cube, DB Schenker would like to see a breakdown of the costs of its deployment at £7,000 per occasion. Given that the Tube Cube appears not to be deployed across the entire network, DB Schenker assumes that on Routes other than LNE, East Midlands and Scotland, manual interventions are used instead. Given that a manual intervention is around half the cost of deploying the Tube Cube, DB Schenker questions whether the Tube Cube is in fact an efficient and cost effective option and, consequently, why freight operators should fund these increased costs through the CSC in CP5.

2.16. It is stated in the consultation document that Network Rail uses manual interventions around 250 times per annum, the majority of which are carried out on the LNE Route (190). Whilst DB Schenker would expect the number of manual interventions to be higher on the LNE Route as it sees a significant number of coal services, it finds it difficult to believe that the number of manual interventions is around 600% higher than the

next highest Route which is Scotland with 31 per annum and 4800% more than the East Midlands Route at 4 times per annum, which also carries a high number of coal services.

2.17. DB Schenker, therefore, questions whether the LNE Route has also included the number of 'clean up' operations in response to points failures in its manual intervention total. Given that Network Rail provides freight operators with detailed information on coal spillage related points failures (including dates and location), DB Schenker considers that Network Rail should also provide such details in respect of its Rail Vac, Tube Cube and manual interventions to confirm the figures it has used to arrive at its estimate of £1.8m proposed to be included in its overall estimate CP5 coal spillage costs.

*Cost of point end service life reductions*

2.18. DB Schenker notes that Network Rail is proposing to change its approach to managing points on low criticality routes in CP5 with the aim of extending service life through heavy refurbishment. To achieve the extended service life, DB Schenker understands that each point end will be refurbished at a cost of £67,000 and this cost will be added to the point end renewal rate of £485,000 to arrive at an overall renewal and refurbishment cost of £552,000 per point end.

2.19. Whilst this action should extend asset lives and, therefore, reduce costs over the very long term, DB Schenker considers that this change of policy by Network Rail should not result in increased costs being allocated to coal spillage in the short to medium term. This is because it is unreasonable in DB Schenker's view that coal spillage should be subsidising the initial up front costs of the extended service life of the relevant points ends when it is expected that the amount of coal being transported by rail will decrease significantly during CP5, let alone over the 60-year period representing the timeframe of the extended life.

2.20. Network Rail also appears to have assumed that the entire number of point ends used in its analysis to estimate this element of coal spillage costs for CP5 are located on low criticality routes and, therefore, subject to the extended service life refurbishment. DB Schenker considers that this simply cannot be the case as there will be a mix of different route types depending upon each location concerned.

2.21. DB Schenker notes that Network Rail has estimated the average number of point ends per mile based on a national population of point ends and track miles (excluding sidings) at 1.04 point ends per track mile. DB Schenker has significant concerns over this approach. Firstly, there are significant concentrations of point ends found in and around passenger stations and termini which never see a coal train, particularly in London and other major cities in England and Scotland. Calculating a national average of point ends per mile to use in Network Rail's estimation of coal spillage costs without taking this factor into account will lead to a significantly higher cost estimate for service life reduction than otherwise should be the case.

2.22. In addition, whilst DB Schenker agrees that Network Rail should not take into account point ends wholly in sidings, it also considers that Network Rail should also exclude point ends that are funded through connection agreements with third parties, otherwise there could be a significant level of double-recovery.

2.23. Network Rail has also chosen not to revisit the approach used in CP4 which assumed that coal spillage from loading and unloading points is exhausted after 20 miles and 25 miles respectively. With the significant investment undertaken by freight operators, terminal operators and coal suppliers & forwarders in equipment (including new wagons) and practices designed to reduce occurrences of coal spillage on the network since the ORR Reporters carried out their work in early 2008, DB Schenker would expect that the distance that coal spillage becomes exhausted would have been, consequently, reduced.

2.24. For the reasons given in paragraphs 2.18 to 2.23 above, DB Schenker considers that coal spillage service life reduction costs should not be based on Network Rail's decision to extend the service of point ends and should instead be based on the current service life assumptions. Furthermore, DB Schenker considers that Network Rail's estimate of point ends per mile is significantly overstated as it does not, but should, exclude the major concentrations of point ends in and around large passenger stations and termini that are not traversed by coal services. There are a total of 40 coal loading/unloading locations listed in Annex B of the consultation document. DB Schenker considers that Network Rail should instead use its asset information to derive the actual number of relevant point ends located within the relevant distance from each site which, DB Schenker believes, should be less than the 20/25 miles used in CP4.

*Cost of plain line service life reductions*

2.25. DB Schenker notes that Network Rail is proposing to change its approach to managing plain line on low criticality routes in CP5 with the aim of extending service life through heavy refurbishment. To achieve the extended service life, DB Schenker understands that the relevant plain line will be refurbished at a cost of £230 per metre and this cost will be added to the plain line renewal rate of £679 per metre to arrive at an overall renewal and refurbishment cost of £909 per metre.

2.26. Whilst this action should extend asset lives and, therefore, reduce costs over the very long term, DB Schenker considers that this change of policy by Network Rail should not result in increased costs being allocated to coal spillage in the short to medium term. This is because it is unreasonable in DB Schenker's view that coal spillage should be subsidising the initial up front costs of the extended service life of the relevant plain line when it is expected that the amount of coal being transported by rail will reduce significantly during CP5, let alone over the 67.5-year period representing the timeframe of the extended life.

2.27. DB Schenker, therefore, considers that the costs of plain line service life reductions included in the overall estimate of coal spillage costs should instead be based on the current service life with the finally agreed CP5 plain line renewal rate.

2.28. Network Rail also appears to have assumed that the entire plain line within 20/25 miles of each coal loading/unloading point constitute low criticality routes and, therefore, subject to the extended service life refurbishment. DB Schenker considers that this simply cannot be the case as there will be a mix of different route types depending upon each location concerned.

2.29. DB Schenker also notes that Network Rail has chosen not to revisit the approach used in CP4 which assumed that coal spillage from loading and unloading points is exhausted after 20 miles and 25 miles respectively. With the significant investment undertaken by freight operators, terminal operators and coal suppliers & forwarders in equipment (including new wagons) and practices designed to reduce occurrences of coal spillage on the network since the ORR Reporters carried out their work in early 2008, DB Schenker would expect that the distance coal spillage becomes exhausted would have, consequently, been reduced.

*Q3. Do you have any comments on our initial list of coal loading and unloading points set out in Annex B?*

2.30. DB Schenker agrees that the locations set out in Annex B constitute places at which coal is either loaded or unloaded from rail freight services.

*Q4. What is your view on our proposal to discontinue the CSRIC in CP5?*

2.31. It appears to DB Schenker that the number of schemes applying for funding has dropped considerably from the early part of CP4 when many of the key coal loading locations (e.g. ABP Immingham, Port of Bristol) applied for funding to install cleaning equipment. This, together with the fact that there still remains around £85,000 from the original fund of £295,234.66 (collected from relevant freight operators in 2009/10 and 2010/11), suggests that there is no need to reinstate the CSRIC in CP4 nor levy the charge in CP5. DB Schenker, therefore, supports Network Rail's proposal to discontinue the CSRIC in CP5.

*Q5. What is your view on the appropriate size on an annual investment fund assuming that it was considered appropriate to retain the CSRIC for CP5?*

2.32. If, however, the CSRIC is retained in CP5 (a scenario that DB Schenker does not support), the size of the annual investment fund ought to be considerably lower than the £70k proposed by Network Rail which appears to be based on an annual average of the total amount claimed from the fund thus far during CP4. If the value of the schemes resulting from the expected initial influx of claims during the first year of CP4 is removed (i.e. around £128,000 at final value), this would suggest that an annual investment fund of around £40,000 would be more appropriate. DB Schenker believes that this amount, when added to the monies currently remaining in the fund, ought to be sufficient to fund at least 2 schemes per annum, which represents a reasonable estimate given the likely reductions expected in the transportation of coal by rail over the coming years.

*Q6. What is your view on how we have initially estimated the CP5 CSC rate?*

2.33. As already stated in this response, and in particular in its answer to question 2 above (paragraphs 2.2 to 2.29), DB Schenker believes that the methodology used by Network Rail in calculating its coal spillage costs for CP5 has a number of fundamental flaws which has led to its estimate of the CP5 CSC rate being significantly overstated. This is because many of Network Rail's assumptions appear to be based solely on judgement, views or experience without any actual evidence to justify those views.

2.34. Network Rail has also chosen not to revisit many of the assumptions used by ORR's Reporters in informing the calculations of coal spillage costs for CP4 where those assumptions may well now be different given the significant investment undertaken by freight operators, terminal operators and coal suppliers & forwarders in equipment (including new wagons) and practices designed to reduce occurrences of coal spillage on the network. Furthermore, whilst Network Rail has chosen to pursue laudable measures designed to reduce costs in the very long term by increasing asset life on low criticality routes, this action has a significant effect on increasing costs allocated to coal spillage in the short to medium term which DB Schenker considers unreasonable.

2.35. DB Schenker, therefore, rejects Network Rail's proposal to increase the coal spillage rate for CP5 by around 120% as it believes an increase of that magnitude must be based on actual evidence rather than views, judgement, experience and the adoption of previous assumptions that may well now prove to be incorrect. DB Schenker submits that given the magnitude of the proposed increase in the CSC rate for CP5, Network Rail's methodology used to calculate its estimate of coal spillage costs for CP5 should be independently verified as happened in respect of the current CSC in CP4.

*Q7: What is your view on our proposal to cease adjusting the CSC rate annually in CP5 based on the number of coal related points failures?*

2.36. DB Schenker disagrees with Network Rail's proposal to cease adjusting the CSC rate annually in CP5 based on the number of coal related points failures. DB Schenker believes that such a proposal will remove the important incentive for operators to continue to implement measures aimed at reducing coal spillage on the network. However, DB Schenker acknowledges Network Rail's concern that the current contractual mechanism is flawed as it fails to take also into account changes in traffic volumes.

2.37. DB Schenker, therefore, considers that the annual CSC adjustment mechanism should remain for CP5 but should be revised so that the number of points failures attributed to coal spillage is normalised for traffic volumes. This will retain the incentive properties of the CSC and ensure that Network Rail does not over-recover its costs given the prospect of declining coal volumes over the coming years.

*Q8. What is your view on our proposal that if the CSRIC were to be levied in CP5 there would be considerable merit in setting the level of the charge for the duration of the Control Period?*

2.38. DB Schenker would be strongly opposed to the setting of the level of the CSRIC (assuming the charge is retained in CP5) for the duration of the Control Period. If such a proposal was implemented in CP4, Network Rail would have collected a considerable excess of monies over the total amount needed to meet the proposed funding schemes coming forward. Even though the CSRIC has been suspended for the last 2 years of CP4, there still remains a surplus of £85k to fund further schemes. This figure could have been nearer £500k if the annual review mechanism had not been introduced.

2.39. The competitive pressures on rail freight are such that profit margins are already extremely thin and freight operators can ill afford to be paying excess track access charges to Network Rail for those amounts to merely remain unspent. Therefore, if the CSRIC is retained for CP5, DB Schenker firmly believes that the review mechanism should also remain to ensure that the level of the fund is closely aligned with the value of the schemes coming forward in CP5.

*Q9. Do you have any other comments?*

2.40. DB Schenker's other comments are contained in the section entitled "General Comments" at the beginning of this response.

Yours sincerely,



**Nigel Oatway**  
**Access Manager**