

Periodic Review 2013 - Consultation on the Capacity Charge

Response from Rail Freight Group

August 2012

1. Rail Freight Group (RFG) is pleased to respond to the Network Rail consultation on the Capacity Charge, as part of Periodic Review 2013. This response can be placed on the website in full.
2. Although Network Rail are leading on this consultation, we note that many of the points are as relevant to ORR's consideration of the charging structure for freight and for CP5 in particular. We have included such points in our response.
3. Overall, and subject to the comments below, we support the principle that the capacity charge should be kept as simple as possible, to reduce the burden on freight operators, Network Rail and freight customers. We would also support keeping the charge as low as possible, noting that the analysis undertaken in support of the freight specific charge demonstrated that most rail freight sectors are highly elastic so that increases in the level of charge could lead to traffic reversion to road.
4. We note that this consultation proposes an approach to recalibrating the charge, and does not therefore give any indication over the scale of the new rates for CP5, and this will need to be followed up as the work progresses.

Framework for Capacity Charge

5. RFG acknowledges that the capacity charge was established in 2002, and has been part of the charging structure for freight since that point. However, for CP5, ORR are looking at a number of potential changes to freight charges including the introduction of new charges. The current analysis also suggests that the combined level of freight charges is likely to increase.
6. Against that backdrop it would be helpful if ORR could clarify the legal and regulatory basis for the capacity charge as applied to freight, and how that relates to the other elements of charge. For example;
 - a. Under Directive 2001/14/EC, Article 7/4 a charge is permissible to reflect the scarcity of capacity of the identifiable segment of the infrastructure during periods of congestion. As the capacity charge for freight is at the same rate on all routes and at all times, it would not appear to be levied under this clause.
 - b. Article 11/1 requires a performance scheme, and the capacity charge might be considered under this Article. However, it is unclear that it provides the necessary incentives to managing performance required by this clause, as the charge is fixed over the control period.

- c. The capacity charge could be considered a mark up under Article 8/1 in which case it must be subject to the affordability test, as has been considered in relation to the freight specific charge. Any mark up must be on the basis of efficient, transparent and non discriminatory principles.
7. The impact of an increase in the capacity charge for freight should be assessed alongside the impact of other proposed charge increases when ORR considers the package of freight charges.

Changes since 2002 Calibration

8. Since the capacity charge was introduced, there has been a 14% increase in freight tonne-km but a 35% reduction in the number of freight trains operated. This productivity gain is driven by the need to improve efficiency of rail freight operations – and also aligns with the desire of the capacity charge to make operators use capacity more effectively.
9. Although we understand that passenger operators have increased the number of services over the period, it is unfortunate that the efficiency gains in the freight sector are not reflected in the expected CP5 rates for the charge.

Over Recovery

10. The consultation discusses the problem with over recovery of the capacity charge, caused by all trains being charged the marginal cost even if they are within the base (i.e. not additional). We cannot understand how such over recovery can be justified against the requirement for charges to be efficient, transparent and cost reflective.
11. We recognise that it is not practicable for the charge only to be levied for new services. However, the assessed level of capacity charge over CP5 could be spread equally over all services. Although this would mean that new services were charged less than the marginal rate, Network Rail would still recover the appropriate amount, and the freight operators would not be subject to over recovery.
12. It has been estimated that the over recovery to date in CP4 for the freight sector is around £12m in total, which equates to the total of the charge levied. Given that freight train numbers have dropped so significantly over that period this would be intuitively correct.
13. This demonstrates that this is a significant issue, and one which must be addressed in the re-evaluation of the charge.

Specific Questions

Do you agree that, beyond the arrangements that are currently in place, capacity charge tariffs that vary across time should not be introduced?

14. We support the retention of a simple charge, but also a fair one.

Do you agree that the weekend discount should remain in place? Do you agree that the magnitude of the discount should be revisited, and informed by analysis undertaken as part of the capacity charge recalibration exercise?

15. Yes, encouraging use of capacity at the weekends would be productive for the growth of freight particularly as Sunday operation is vital for encouraging parts of the retail sector to rail. The Freight Joint Network Availability Plan has been developed to help facilitate this in infrastructure planning.

Do you agree that the capacity charge should be disaggregated to service code (rather than service group) level in CP5?

16. As this does not apply to freight we have no comment.

What are your views on developing a tool to calculate capacity charge tariffs for new or amended service codes? How could this be best accommodated contractually?

17. As this does not apply to freight we have no comment.

Do you agree that all freight operators should pay the same single capacity charge tariff in CP5? What are your views on the level of the discount applied to freight services?

18. As above, we support the retention of a simple charge for freight. However the issue of over recovery must be addressed.

Do you agree with Network Rail's proposals in relation to the de minimis threshold?

19. As freight charges are not applied at a service code level we have no comment.

What are your views in relation to arrangements for handling large timetable changes in CP5?

20. Since the charge was first introduced, there have been a number of large timetable recasts for which the capacity charge was not recalibrated. In addition, the charge was not recalibrated for major infrastructure upgrades which could also affect performance.

21. In reality, it is likely that such changes will have to be assessed at the next recalibration.

Do you consider that the proposed methodology for recalibration of the capacity charge described above and detailed in Appendix 2 is appropriate?

22. We are not sufficiently expert to comment on the approach.

Do you agree that the CUI should be used as the basis for capacity charge recalibration as part of PR13?

23. We are not sufficiently expert to comment on the approach.

What are your views about accounting for other determinants of reactionary delay as part of the CP5 recalibration of the capacity charge?

24. We recognise the complexities of accounting for this in the analysis. We note that, as Network Rail are recompensed in full (or more) for the cost of reactionary delays, they are not incentivised to seek to reduce it, and the benefit of additional modelling complexity is limited.

25. The interface between this charge, and the recalibration of Schedule 8 needs to be aligned.

What are your views about the functional form used to model the relationship between reactionary delay and capacity utilisation?

26. We are not sufficiently expert to comment on the approach.

How do you think the industry can guard against analytical risk in the capacity charge recalibration? In the unlikely event that statistical recalibration approach described above is not fully successful, how should we proceed to secure a capacity charge which is fit for purpose in CP5?

27. We are not sufficiently expert to comment on the approach.

How should changes in the capacity charge between CP4 and CP5 be managed?

28. Any change in the capacity charge cannot be considered in isolation from changes in other freight charges. The impacts must be assessed holistically to ensure that the combined charges remain affordable and do not impact negatively on rail freight. Any transition plan between CP4 and CP5 should then be assessed.

Do you support the creation of a capacity charge working group? How do you consider that its membership should be decided? What should be its remit?

29. We support the creation of a capacity charge group, which should represent those affected by the change, and with sufficient experience and knowledge to

Do you have any further views or suggestions about our approach to stakeholder engagement in relation to the capacity charge?

30. The consultation on the capacity charge is underway alongside a great number of other workstreams and consultations for PR13 and other topics. There is a limited industry resource available. For future periodic reviews, it is imperative that Network Rail and ORR collectively plan the workload across the five year period to minimise the impacts on all concerned.

Do you prefer fewer and longer consultations or more regular and shorter consultation?

31. RFG would prefer to have the consultation spread over a longer period to avoid the current high level of workload. We recognise that some work has to be done as part of the periodic review, but some elements can be done in advance, for example on the principles.

Do you have any further views or suggestions about our approach to stakeholder engagement in general?

32. No further comment.