Rail Wagon Association
Response to the Network Rail Consultation on
Regulated Access Charges in CP7

January 2023

1. The Rail Wagon Association (RWA) represents the interests of owners, keepers, freight end users, designers, manufacturers, hirers, ECMs, consultants, maintainers and operators involved in rail freight wagons based in the UK. This includes the 5 principal freight operating companies and Network Rail.

2. Our organisation has 30 member companies and we cover over 95% of the wagons operating in the UK, including the infrastructure fleet.

3. We wish to make the following comments on the consultation which are not confidential.

General Comments

4. In many of our responses over recent years we have stressed the importance of providing certainty of track access charges to those companies looking at investing in rail. New build wagon projects can be quite long (18 months plus) and so certainty about future charging regimes and the overall level of charge is very important.

5. Most of the investment in freight is made by the private sector investing in locomotives, wagons, terminals and the associated loading, discharge and storage facilities. Whether that investment is in wagons or terminals, the calculation of its rate of return inevitably spans more than one Control Period. Early advice of the next set of charges is therefore important.

6. Whilst this consultation talks about the methodology of calculating the track access charge, the publication of the actual charge is still awaited. It is imperative that the promised date for publication of draft price lists in May 2023 is adhered to, so as to give early visibility to those considering investment in rail freight. Confirmation of which commodities will be subject to the ICC is also important.

7. We note in paragraph 1.7 that there will be further draft price lists issued following ORR's Draft Determination which Table 2 implies will be in July. Final price lists will be released following ORR's Final Determination in October 2023. We believe it is essential that there is very little difference between these drafts and the final list, if investor confidence in the railway is to be secured.

Infrastructure Cost Charges (FTACs and ICCs)

8. We note that ORR decided that certain freight commodities will continue to pay an ICC. We question the suggestion that ESI Coal can once again be deemed 'able to bear' a mark-up when the tonnage remaining could easily be moved by road. Similarly, the suggestion that domestic waste may be brought into the ICC fuels uncertainty in the minds of parties looking to invest in other sectors of rail – 'will it happen to me in future Control Periods?'

9. The proposal in para 3.49 to remap Freight commodities seems sensible if it is to assist with industry analysis and reporting. This move would however be detrimental to freight if segmenting traffic such as Domestic Intermodal into Maritime and Domestic, leads to one being deemed able to bear an ICC in future Control Periods. It would be helpful if an early statement confirming that this is not the motive were to be issued.

10. **Question 1:** We agree with the proposal to simplify the calculation of fixed costs. Confirmation that there is no significant impact on freight charges would be helpful.

Variable Usage Charges

11. We note ORR's conclusions regarding the approach to setting VUC for CP7 and the phasing-in of full VUC rates for freight. We also note that ORR intends to review this conclusion once Network Rail has published the new cost reflective VUC rates.

12. The purpose of this review and its possible outcomes is unclear and must not be allowed to undermine freight end user confidence. An early statement from ORR is needed soon after the draft price list is published.

13. **Question 2:** We have reminded members to notify Network Rail of any further changes required to vehicle characteristics.

14. We believe that low track force bogies must continue to be incentivised, although we think that the full benefit is not passed on to the wagon. Whilst reduced track access charges go some way towards rebalancing the books, the recompense falls short of what is required.

15. It would be desirable if a similar mechanism was available for reduced charges where the wagon owner has fitted technology to reduce the risk of infrastructure harm. The UK could benefit from embracing such technology, but the present industry structure does not deliver the full benefits back to the investor. The higher cost of such equipment is borne by the wagon owner, whereas the benefits accrue to the infrastructure manager. The mechanism should encourage best in class wagon development, especially where it reduces the risk of infrastructure harm.

16. We note that the errors are expected to 'all but' cancel each other out. It does raise the question as to what other errors may be in the model and whether it needs another audit.

17. **Question 3:** We agree with the proposal.

18. **Question 4***:* We do not agree with the proposal to limit refunds of overpaid VUC back to the start of the financial year.

19. Whilst we understand the issue of operators running with a Default VUC for a new or modified vehicle for a long period of time, we do not support the proposal to limit the refund to the financial year. We are concerned that there may be unintended consequences from such a move.

20. Moreover, there may be a valid reason why obtaining the consented VUC is delayed. It would be perverse if one operator is refunded one month's overpayment whilst another, using the Default Rate for the same length of time, is refunded eleven months, just because of the timing of the determination by ORR.

21. We do not accept the argument that Network Rail is incapable of budgeting for a rebate when it is fully aware of the vehicles which it is charging at the Default Rate.

22. A more equitable method of limiting the overcharge would be to introduce a time limit such as 24 months.

23. **Question 5:** We support Network Rail's proposed areas for review and suggest that introducing lower charges for the adoption of technology should also be included (see para 15 above).

24. We would also like to see recognition of the carbon benefits of high capacity wagons and longer trains as these result in fewer trains on the network and lower emissions of CO_2 per tonne mile. Similarly, this should apply to locomotives, noting the references to electrification, but recognising that there are other modes likely to come to market (especially for freight only lines which are not electrified) in future years.