



Loading licences

July 2018

Introduction

1. This statement sets out the Office of Rail and Road's (ORR's) position in respect of loading licences granted by Network Rail.

ORR's role

2. Network Rail operates under a network licence issued under the *Railways Act 1993* (the Act). This licence sets a number of conditions which Network Rail must follow. The licence is a tool we have for holding Network Rail to account. Condition 7 of Network Rail's network licence safeguards against the inappropriate disposal of land assets. Also under the Act we approve track access contracts. We also consider appeals made to us under the *The Railways (Access, Management and Licensing of Railway Undertakings) Regulations 2016* among other responsibilities¹.

Loading licences

3. A loading licence is a licence granted to a freight customer or freight operating company (FOC) to allow them to load trains parked on the track. The loading licence gives this party permission to use Network Rail's land alongside the track in order to do this, at certain defined times when other operators do not need to use the line.
4. Network Rail regards the use of loading licences as a way of facilitating lineside loading. They are granted on a short term basis and allow a cheaper alternative to building a freight terminal or connecting a site to the mainline. They can therefore enable new freight traffic.

Land disposal

5. Network Rail's position is that loading licences are managed as commercial property licences and so should be regarded as land disposals for the purposes of condition 7 of its network licence. Network Rail has stated that it has not sought ORR specific approval because the licences are covered by our General Consent².

¹ For more information see <http://orr.gov.uk/about-orr/what-we-do>

² http://orr.gov.uk/data/assets/pdf_file/0007/1996/land-disposal-regulatory-arrangements.pdf

ORR's view

6. Network Rail has progressed a number of initiatives to develop the rail freight market³. However, it is important for Network Rail to be transparent and open about its charges with its customers and potential customers. This avoids undue discrimination or unfairness or the perception of this.
7. Our view is that transparency in this area increases customers' confidence and certainty. Network Rail has proposed issuing new guidance called 'Guide to Lineside Loading', outlining its policies and explaining its charges. We welcome this initiative, as Network Rail should clearly explain its loading licence system and its charging principles to customers. Its policies should be open, transparent and not unduly discriminatory. Its 'Guide to Lineside Loading' should be useful as part of that approach.
8. On the basis that Network Rail is publishing this guide, we are content for it to continue to use the land disposal General Consent. We therefore accept that it does not need our specific approval for individual loading licences, where they are of the type described to us during this case.
9. ORR audits land disposal transactions conducted under the General Consent to ensure the facility is being used appropriately. ORR will monitor the terms of loading licences to ensure that they are consistent and non-discriminatory to Network Rail's rail customers. If we do receive any complaints we will review each case on its merits and we may review our position.



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³ <https://www.networkrail.co.uk/industry-commercial-partners/rail-freight/>