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Ref : ORR/TrackChargesReview

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Dear Ekta,

**High Level Review of Track Access Charges**

Many thanks for the opportunity to respond to the recent consultation document on the high level review of Track Access Charges and Options for CP5.

The comments below are based on the consultation document and the recent industry workshop that took place at the ORR's office on 20 April 2010. This response does not seek to address all the individual issues raised in the document but tries to cover those aspects that are important to East Midlands Trains (EMT).

Firstly, East Midlands Trains are supportive of the current framework of track charges. While the existing structure provides the basis to meet industry's requirements, we do not wish to see any fundamental changes to the current arrangement unless there is a positive case for change

1. We are supportive of the main objective of this review to promote efficient use of capacity and to develop the rail network while driving down whole industry costs. Whilst the regulator must keep the charges framework under review to ensure that charges continue to be fit for purpose, we need to keep in mind that other franchising frameworks over time might have an impact on the charges.
2. The implementation of CP4 Track Charges had a huge impact on EMT. On account of the Schedule 9 provisions in the Franchise Agreement, EMT had to allocate resources at a senior level to determine the Schedule 9 Franchise Agreement adjustments. This is a hidden cost to train companies. Therefore, we would like the Rail Regulator to take into account TOCs resources that are required to work on the Schedule 9 provisions when implementing any changes to the charges for CP5.
3. Further analysis will be required should any of these recommendations be employed. If any of these options are implemented, we would like to see that potential benefits of any changes outweigh the potential costs to train operators.
4. In considering these shortlisted options on the overall approach to track access charges, Schedule 4 and Schedule 8 regimes in the Track Access Contract cannot be isolated. Some of these options on charges e.g. Scarcity Charge, would require changes to the compensation regimes in order to offset the premium that is required to be paid for specific services.
5. With the point made above and in the light of charges' structure, East Midlands Trains would like to understand how the Rail Regulator judges Network Rail's late cancellation of possessions which has an impact on TOCs revenue. TOCs incur management costs to prepare for the work and subsequently suffer a loss in revenue. This is the case for aborted Network Rail Strikes as in April 2010. Schedule 4 does not enable passenger train operators to claim revenue losses incurred as a Type 1 or Type 2 Restrictions of Use in such instances.

Yours sincerely,

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