

Consultation on ORR's criteria and procedures for the approval of track access contracts

1. I am writing to consult you on updated versions of our criteria and procedures documents for the approval of passenger and freight track access contracts.

Background

2. The criteria and procedures documents set out the way in which we will process applications for track access contracts. We published the third edition of our criteria and procedures for the approval of passenger track access contracts in June 2003¹. Following this, we published the second edition of our criteria and procedures for the approval of freight track access contracts in March 2004².

3. In both cases, we said we would keep the documents under review. Since their publication, several developments have resulted in changes to the way in which we consider track access applications. These include:

- (a) the publication of new or revised policies, including moderation of competition, long-term track access contracts and the model connection contract;
- (b) the enactment of the Railways Act 2005, which amended ORR's statutory duties, and resulted in the demise of the SRA and the transfer of its functions; and
- (c) the forthcoming implementation of the Railways Infrastructure (Access and Management) Regulations 2005, which will transpose the First EU Railways Package into UK law.

¹ *Criteria and procedures for the approval of passenger track access contracts: third edition*, Office of the Rail Regulator, June 2003. Available at <http://www.rail-reg.gov.uk/upload/pdf/173.pdf>.

² *Criteria and procedures for the approval of freight track access contracts: second edition*, Office of the Rail Regulator, March 2004. Available at <http://www.rail-reg.gov.uk/upload/pdf/192.pdf>.

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Purpose of updating the criteria and procedures documents

4. These changes have prompted us to update the current versions of our criteria and procedures documents. This update does *not* revisit established policies, or introduce any new policies. The intention is to ensure that both documents accurately and clearly reflect the way in which we expect to process and consider track access applications. As such, the updated documents purely reflect changes to ORR policy and legislation that have taken place since the publication of the most recent editions of the criteria and procedures documents.

5. Please note that we have drafted the updated documents as though the proposed Railways Infrastructure (Access and Management) Regulations 2005 are in effect. We understand from the Department for Transport that these will be implemented in November 2005.

Future changes to the criteria and procedures documents

6. To make it easier for us to keep the criteria and procedures documents accurate and up to date and to ensure that they remain a valuable aid for applicants seeking track access, from now on we are introducing a new method of updating these documents.

7. In future, whenever we introduce changes in policy (following the usual consultation process, of course) we will issue corresponding changes to the criteria and procedures documents via the ORR website at www.rail-reg.gov.uk. Both documents will be updated periodically to reflect any new or revised policies and processes and will be published as a consolidated version on our website. We will notify stakeholders of any changes to these documents on our website by email.

Consultation arrangements

8. You can see the updated documents on our website by following this link www.rail-reg.gov.uk/server/show/nav.00100b002001005001. Alongside the updated versions of both documents, you will find deltaview comparisons of the updated versions of the documents with their current editions, which highlight all the changes that have been made.

9. We would welcome your views on the updated passenger or freight document, or both documents. They are broadly similar except where describing sector-specific issues. Please state whether your comments relate to the passenger or freight document, or both. In particular, we would like your views on:

- (a) the effectiveness of our procedures for dealing with applications, including the application process that we follow;
- (b) the value of these documents as a reference for potential applicants; and
- (c) our proposal to provide future updates of the criteria and procedures electronically.

Further consultation issues:

10. In addition to updating our criteria and procedures documents, we are considering a future wider review of our processes for considering track access applications to see if they could be done more efficiently and effectively. To inform our thinking, we would therefore welcome your views on:

- (a) where the processes add value, where they don't and how they could add more; and
- (b) ways in which we could further improve the processes, for example, through the wider use of general approvals; and
- (c) whether embedding the processes within the industry's own processes would help, particularly in terms of the level of detailed checking carried out by ORR and any duplication of effort.

11. You will find details of how to respond to this consultation at the end of Chapter 1 in both documents. We need your responses no later than **1 February 2006**. Following the consultation period, we intend to publish final versions of both documents in March 2006.

Publication of consultation responses

12. We will make all substantive responses available on the ORR website and may quote from them. If you wish all or part of your response to remain confidential to ORR you should set out clearly why this is the case. Where you make a response in confidence, please also send us a statement summarising the submission but excluding the confidential information, so that we can publish that instead.

13. If you have any queries on this consultation relating to the freight document please contact Sam Gibbins on 020 7272 3855 or by email sam.gibbins@orr.gsi.gov.uk. If they relate to the passenger document please contact Richard Gusanie on 020 7282 2065 or by email richard.gusanie@orr.gsi.gov.uk.

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