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Copy Emily Bulman, ORR

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Dear Joel,

PR13 – Consultation on the Capacity Charge

This letter sets out TfL's response to the consultation. TfL is content for the response to be published.

TfL is concerned that Network Rail starts from the position of assuming the capacity charge will increase by as much as 55% in CP5 as a result of increased passenger revenue in recent years. The capacity charge should be driven by the number of trains in relation to available network capacity and the resulting level of congestion, not by passenger revenue. Infrastructure enhancements have taken place in the same period and performance has improved. There should be no automatic link between increased revenue and increased capacity charge.

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

TfL believes that capacity charge tariffs that vary across time **should** be introduced. The capacity charge needs to reflect the trains that run at the most congested time of day and so should vary by time period. The minimum level of disaggregation should be between peak and off peak. Services run by operators such as LOROL which run a fairly flat timetable profile across the day should have a relatively lower tariff than those which have a very peaked service pattern.

In addition, a regular stopping service such as that operated by LOROL uses less network capacity than a more varied service pattern of fast and slow services operating on the same infrastructure and this will be reflected in the capacity charge.

2. 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?

TfL believes the weekend discount should be retained.

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

The capacity charge should be disaggregated and service code is an appropriate level of disaggregation as long as this does not cause large variations in charges.

4. 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?

TfL agrees with the need to develop a tool to calculate capacity charges for new or amended service codes. This should also take into account infrastructure changes that affect capacity. An increase in the number of trains may not necessarily increase congestion if the network has been enhanced. In CP4, NLRIP and East London Line Extension increased capacity and in CP5, Thameslink and Crossrail projects will increase network capacity in London.

5. 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?

TfL does not agree with this proposal. Freight operators' tariffs should reflect congestion on the routes on which they operate and provide an incentive to take account of congestion in planning freight services. Freight services operate on the congested North London Line and should pay a higher tariff for routes such as this than they do on uncongested routes. In addition, tariffs should vary between peak and off peak to provide an incentive to run at less busy times.

The capacity charge should apply to booked slots rather than services run. Retention of freight slots on routes used by London Overground can constrain capacity available for passenger services and increase congestion on the network even if the slots are not actually used.

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

TfL agrees that the de minimis threshold should remain.

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

Large timetable changes will need to be reflected in the capacity charge during CP5. However, funders need sufficient notice of changes to be able to budget for them. Although it may be necessary to change capacity charges during CP5, the number of changes should be kept to a minimum. Where timetables are changes as a result of scheme which increase capacity such as Thameslink and Crossrail, increased capacity will need to be taken into account.

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

The proposed methodology which calculates the capacity charge on the basis of CUI appears reasonable. It is important however that the overall charge does not increase significantly as this could deter provision of additional services especially in London where they are needed to meet increasing demand.

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

TfL is content that the CUI is used as the basis of the recalibration. Where infrastructure enhancements or timetable improvements increase available capacity, service frequency may increase without a corresponding increase in congestion and these factors need to be reflected in the charge.

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

The capacity charge should take into account other determinants of reactionary delay where this is practicable and can be determined through robust data analysis. Junctions and station throat constraints represent a key part of the definition of capacity and should be reflected in the charge as should the amount of network capacity used by a particular service pattern.

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

TfL has no comments at this stage.

12. 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

In the event that any revised approach to calculating capacity charges fails to deliver robust results then the most realistic option would be to revert to the approach used for CP4, given the timescales involved and to update for Schedule 8 payment rates.

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

Revised capacity charges should be published before the start of CP5. As noted earlier, TfL does not believe that there needs to be a step change in charges between CP4 and CP5.

14. 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?

TfL supports the creation of a capacity charge working group. Its membership would include Network Rail, owning groups or TOCs/FOCs and funders such as DfT and TfL.

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

Network Rail should continue to engage with stakeholders as work on the capacity charge progresses.

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

TfL has no preference as long it has sufficient notice to respond to consultations and the consultation responses have an influence on decision making.

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

Network Rail could make it easier to find consultation material on its website, for example by having a single, clearly advertised area devoted to consultations containing links to all related material as does ORR. Currently consultations can be found at various locations on the Network Rail website which increases the risk that users may fail to respond to a consultation that is important to them.

Yours sincerely

Carol Smales