

Periodic review 2013 Consultation on incentives

This document has been prepared by the Civil Engineering Contractors Association in response to the Office of Rail Regulation consultation on incentives, as published on 14 December 2011.

The Civil Engineering Contractors Association (CECA) represents more than 300 companies who operate in the infrastructure sector across England, Scotland and Wales. We estimate that 70-80 per cent of all infrastructure activity in the UK is carried out by our members. In the rail sector, we understand that more than 90 per cent of all Network Rail building and civil engineering activity is currently delivered by CECA member companies.

Our activities in the rail sector are led by the CECA Rail Forum. The Forum, which meets approximately four times a year, allows members to identify and act upon concerns and opportunities for improvement within the sector. It also offers clients and other industry stakeholders the chance to come to meet with members, supporting collaborative working.

In responding to the consultation we recognize that there are questions asked by the consultation document which we are not best placed to respond to. For this reason we have restricted our responses to those areas where we feel we can provide insight from the civil engineering contracting point of view. We have responded to the following questions:

Q5.1: Do you think that the current possessions and performance regime broadly help to align incentives between operators and Network Rail in the best interest of customers, funders and society? If not, why not?

In broad terms we would support this, especially for day to day maintenance and renewal activity.

Where we do question the utility of these charges is for major renewals and enhancements. In this case there seems to be little recognition given to:

1. The increase in utility/value achieved by the infrastructure improvements carried out.
2. The additional direct cost of carrying out the works in short, stop/start possessions
3. The lack of a steady workbank adds to the employment of casual staff in the rail infrastructure market leading to a wider deskilling and loss of efficiency

We agree with comments in para 5.19 of the consultation

"5.19. In addition to this, concern was expressed by some participants of our Schedule 4 workshop in November 2011 that it encourages too many weekend and short overnight possessions when there may be other solutions that offer better value for money. These may include longer weekday overnight possessions where the first and last weekday train services are cancelled. We also have anecdotal evidence that Schedule 4 encourages Network Rail to book possessions years in advance, which often results in cancellations of possessions at short notice and clashes with major events."

Q5.2: Do you think it is appropriate to retain Schedules 4 and 8 as liquidated sums compensation regimes?

We believe that there is clearly a benefit in using liquidated sums, as long as people understand their liabilities.

Q5.3: Do you think it would benefit customers, funders and society and encourage greater co-operation if Schedule 8 compensation rates from Network Rail to train operators did not reflect the full impact of possessions on revenue and costs? We also welcome any further views on this issue in relation to Schedule 4.

Where work carried out that does not benefit a particular operator (maybe platform extensions being of no benefit to a FOC) then having the correct level of LDs allows the disruption to be correctly recompensed. Otherwise, discounted rates would act as sufficient incentive to encourage the most efficient delivery of infrastructure works

Q5.5: Do you envisage any barriers to modifying or replacing the Schedule 4 and 8 regimes in cases where both a train operator and Network Rail wish to? What do you see as the advantages and disadvantages of bespoke approaches? Do you agree with our proposal regarding the circumstances when we will approve bespoke Schedule 4 and 8 arrangements?

We see no barriers - see our answers above. We are in strong agreement with the comment in paragraph 5.51 (b) of the consultation:

"5.51(b). In relation to an enhancement scheme which will benefit a train operator financially. The train operator might agree to face additional disruption and sacrifice Schedule 4 and 8 payments in order for the enhancement to be delivered more quickly"

We hope that this response is of assistance as the Office of Rail Regulation continues its work in this area. We would be very happy to provide further details. If you would like to follow up on any of these points, please contact CECA Director of External Affairs Alasdair Reisner on 0207 340 0454, or alasdairreisner@ceca.co.uk