

OFFICIAL



# CP7 Access Charges Discount Policy

Version 1.0

09 August 2024



## Contents

1	Introduction .....	3
2	Application process.....	5
3	Criteria .....	7
4	Discounts .....	10
5	Operator application.....	12
6	Decisions and implementation.....	13
7	Terms and conditions.....	14
8	Help with discount applications.....	15
9	Version Control .....	16

## 1 Introduction

### Purpose

- 1.1 The purpose of this document is to set out Network Rail's policy on the process and criteria required for an operator to apply for an access charges discount and how any successful application will be administered.
- 1.2 [The Railways \(Access, Management and Licensing of Railway Undertakings\) Regulations 2016 \(A&MRs\)](#) contain a provision that permits Network Rail to implement discounts, in certain circumstances, to the access charges we levy on operators. These discounts are intended to encourage the development of new services, or the use of considerably under-utilised lines.
- 1.3 This policy document is consistent with the A&MRs, which allow Network Rail to offer discounts as a means of promoting efficient use of the network and improving the overall economic balance of railway activities. As part of the 2023 Periodic Review for control period 7 (CP7) (PR23), in our delivery plan, we stated our intention to develop and implement a discount policy that would support these objectives and provide a clear and transparent framework for operators to apply for and benefit from access charges discounts.
- 1.4 The access charges discount policy and process are independent from an operator's application for access rights. Where a discount has been agreed for a prospective service (i.e. one that has yet to become established outwith any trial), it does not mean that an operator will automatically be granted access rights to run the service in question. The operator will still have to apply for access rights in accordance with the established industry processes.

### Context

- 1.5 Network Rail is committed to facilitating rail growth for passenger and freight users, across the whole of the UK network, recognising the economic and environmental benefits growth brings, alongside the benefits to the travelling public and the freight industry.
- 1.6 The UK government has a stated policy objective of growing rail freight. Indicative of this is the CP7 rail freight growth target of 7.5% for England and Wales and the Scottish Government CP7 target of 8.7%, and the recently announced long-term rail freight growth target of 75% by 2050. Introducing new rail freight services will be critical to meeting these targets.
- 1.7 Our understanding of the rail freight market is that discounts (on track access charges) could help facilitate new traffic flows, where the risk of running a new service at a loss, before sufficient business has been acquired to make it financially sustainable, is too great. These new traffic flows, which otherwise might not have been realised without a discount, will help to meet these challenging growth targets and the UK's net zero carbon commitment through modal shift to rail.

- 1.8 While the provision of discounts to our access charges are not a regulatory requirement and are permitted through relevant legislation, there will be a requirement to ensure that we are compliant with the Tack Access Contract. We expect this to require the use of an overlay agreement (in the form of a letter).

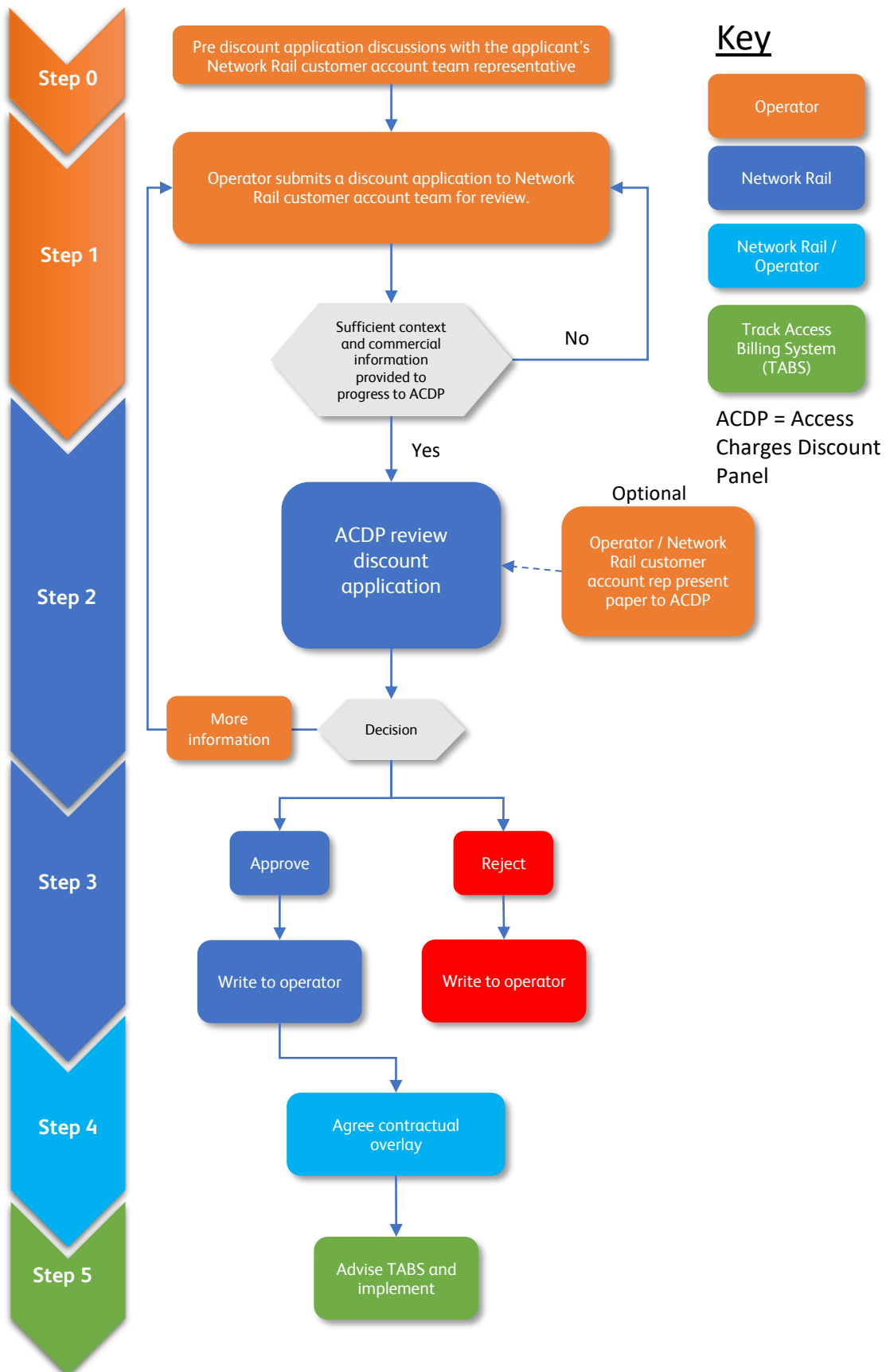
### **Funding and Revisions of the Policy**

- 1.9 Network Rail is not explicitly funded to support the discounts approved under the Policy, as such they will be funded directly by Network Rail. This is expected to be achieved through additional efficiencies or reprioritisation of funding.
- 1.10 Therefore, as well as keeping the policy under review and revising it based on feedback or experience in administering it, we reserve the right to withdraw the policy, subject to paragraph 7.4.
- 1.11 Please refer to the Version Control (section 9) for further details.

## 2 Application process

- 2.1 Operators interested in obtaining a discount should first have a conversation with their Network Rail customer account manager to discuss the service they propose and assess potential eligibility for a discount.
- 2.2 Following this, operators are expected to formally submit an application to the customer account manager who may request additional details to verify eligibility and to ensure that there is enough information for the application to be considered by the Access Charges Discount Panel (ACDP), which is explained further in section 6.
- 2.3 The ACDP will evaluate the application and make a determination on whether the operator qualifies for the discount, potentially asking for more information to aid their decision-making process. Once a decision is reached, the operator will receive written notification from the panel detailing the outcome
- 2.4 Upon approval of the discount, Network Rail and the operator will work together to agree the required contractual changes. As previously stated at paragraph 1.8, we expect this to require the use of an overlay agreement (in the form of a letter).
- 2.5 The TABS billing team will be notified once the contractual changes have been approved so that the discount can be implemented from the commencement date of the applicable service.
- 2.6 Figure 1 below shows an overview of the application process.

Figure 1 – Access charges discount application process map.



### 3 Criteria

#### The Railways (Access, Management and Licensing of Railway Undertakings) Regulations 2016 (A&MRs)

- 3.1 Paragraphs 6(1) – 6(7) of Schedule 3 of the A&MRs provide the legislation and detail under which Network Rail, as the infrastructure manager, can apply a discount on its access charges.
- 3.2 Broadly speaking, it states that the infrastructure manager **may** introduce discount schemes, making them available to all users of the railway infrastructure in order to **encourage the development of new rail services or encourage the use of considerably underutilised lines**. They must be in relation to specific flows and be time limited.

#### Qualifying criteria

- 3.3 For the avoidance of doubt, Network Rail is not offering discounts to just any ‘new rail service’; there must be a commercial need for the discount such that without it, and unless otherwise provided, the new rail service would not be commercially viable in its early stages, hence preventing it from establishing itself as a sustainable traffic flow (see paragraphs 5.3 - 5.6 relating to evidence).
- 3.4 This section sets out, in more detail, the qualifying criteria that need to be satisfied in order for an application to be considered.
- 3.5 While discounts are open to all users of our infrastructure (railway undertakings) – i.e. freight, passenger (including open access) and charter operators – it is necessary to have qualifying criteria separately for freight and passenger (including charter) operators, in acknowledgment that they are distinctly different in nature.
- 3.6 However, while not explicitly prohibited from applying, we do not envisage that publicly contracted passenger operators will qualify for a discount due to the nature of their contractual and funding arrangements.

#### Discretionary powers

- 3.7 Network Rail will make every effort to act in a non-discriminatory manner and in so doing will have discretionary approval powers to ensure all applications meet the intended spirit and requirements of the discount policy and A&MRs.

**Freight criteria**

3.8 Table 1 below details the discount qualifying criteria for freight services. To qualify for a discount, the applicant must meet either criteria a or criteria b, i.e. it must be new to rail traffic or be a new rail freight axis.

Table 1 – Freight application criteria.

Scenario	Criteria
<p>a. New to rail traffic; and</p>	<p><b>This includes:</b></p> <ol style="list-style-type: none"> <li>1. New goods / commodities; and</li> <li>2. Goods that were previously being conveyed by a different mode of transport.</li> </ol> <p>This <b>does not</b> include goods that were already being transited by rail on a separate circulation and are moving to this ‘new’ circulation specifically to take advantage of the discount, abstracting volumes from the original circulation.</p> <p>For example, today, a circulation operates between Tilbury and Daventry. Were this traffic to move to help create a ‘new’ circulation from Tilbury to Northampton Gateway, making the Daventry circulation redundant, the new Northampton Gateway circulation would not be eligible for a discount.</p> <p>However, were a new circulation to run from Tilbury to Northampton Gateway and volumes remain unaffected on the original Daventry service, this new to rail traffic would be eligible.</p>
<p>OR</p>	
<p>b. A new rail freight axis.</p>	<p>Whilst the origin and/or destination might previously / currently receive rail freight traffic, the axis between the origin and destination has <b>not</b> previously been served as an established traffic flow (in principle established taken to mean at least one train per week has been running for a period of greater than at least six months), irrespective of the routing. NB this is to ensure that previous failed attempts to establish a new circulation on a particular axis, such as Felixstowe - Daventry, do not prevent a new circulation on the same axis from being eligible for a discount.</p>



### Passenger and charter criteria

3.10 Table 2 below details the discount qualifying criteria for passenger and charter services. To qualify for a discount, the application must be for a new passenger service axis.

Table 2 - Passenger and charter application criteria.

Scenario	Criteria
Passenger or charter train operating companies offering a service on a new passenger axis	<p>The axis between the origin and destination will be served as a new established traffic flow, irrespective of the routing.</p> <p>An established traffic flow will be different in the context of passenger and charter services. For passenger services it should mean at least one train per week running for a period of equal or greater than one year. For charters, this could be less, i.e. for a season, acknowledging the unique nature of their business.</p> <p>The origin and destination may not be restricted to a particular station but may also be considered in a broader sense. For instance, London can be regarded as a destination.</p>

## 4 Discounts

- 4.1 The Variable Usage Charge (VUC) and the Electrification Asset Usage Charge (EAUC) will be the charges that are considered for a discount.

### Variable Usage Charge (VUC) background and context

- 4.2 The purpose of the VUC is to recover the track, civils and signalling 'wear and tear' maintenance and renewals costs that Network Rail incurs when trains run on the network. The charge is paid by all operators (i.e. publicly funded passenger, freight, open access and charter operators).
- 4.3 The VUC rate is calculated for individual vehicles and published on our Track Usage Price List [here](#). Passenger and open access VUC rates have been calculated using the PR23 VUC model, are uncapped, and are charged per vehicle mile. However, freight VUC rates are being phased-in and will only reach PR18 cost reflectivity by the final year of CP7 and, all things being equal, are expected to continue to be phased-in over CP8 reaching PR23 cost reflectivity by the final year of that control period. Freight VUCs are charged per thousand gross tonne miles.

### Electrification Asset Usage Charge (EAUC)

- 4.4 The purpose of the EAUC is to recover the 'wear and tear' costs of maintaining and renewing electrification assets. The charge is paid by all operators of electrified services.
- 4.5 The EAUC rates are split into DC and AC and are provided for passenger (including Open Access and charter) and freight operators separately. Passenger services are charged per electrified vehicle mile, while freight operators are charged per electrified thousand gross tonne mile.

### Scope of discount (time period and discount percentage)

#### Time period

- 4.6 Consistent with the A&MRs, any discount must be time limited. Therefore, the discount will apply for a set timescale of seven railway periods (approximately six months).
- 4.7 Seven rail periods has been selected based on our understanding that this is typically the length of time it would take to establish volumes on new freight services. While we recognise that the time required to establish services will vary, some shorter, some longer, we believe applying the seven rail periods uniformly to all successful applications, will avoid additional complexity and ensure an equitable process.

### Percentage discount

- 4.8 The discount will be set at 100 % of the VUC rate, applicable for the vehicles (and commodity, where relevant) being used, and 100 % of the applicable EAUC rate if the traffic is electrified.
- 4.9 Choosing a set discount and time period rather than a variable scale or multiple options simplifies understanding for operators by providing clear savings amounts, enabling them to decide if the service will be commercially viable if the discount is offered.
- 4.10 Keeping the discount simple (in terms of level and duration) supports ease of understanding, implementation and administration.

## 5 Operator application

### Details

- 5.1 Discount applications should be submitted to the operator's Network Rail customer account team representative. There is currently no template application form as we want to give operators freedom in how they present their applications and evidence.
- 5.2 That being said, each application should consist of a minimum of:
- a) A letter or document clearly explaining the background and context to the application and how it complies with the criteria set out in section 3, including such details as, but not limited to:
    - i. The origin and destination of the service;
    - ii. The likely consist of the train (i.e. vehicle / wagon types);
    - iii. The commodity type being transported (for freight applications only); and
    - iv. Target loadings to make the service sustainable;
  - b) Evidence to substantiate the application's reliance on a discount for the service to become established. The Evidence section below contains more details on what should be provided.

### Evidence

- 5.3 As stated in paragraph 3.3, Network Rail is not offering discounts to just any new rail services; there must be a commercial need for the discount such that without it, and unless otherwise provided, the new rail service would not be commercially viable in its early stages, preventing it from materialising.
- 5.4 Therefore, any discount application must be accompanied by sufficient evidence to support the commercial need for a discount. It is for the operator to determine the extent of this evidence however, as a minimum, Network Rail needs to see quantified financial data that demonstrates that the business case for the service without the discount, is marginal. A generic letter to that effect will not be deemed sufficient.
- 5.5 It may be necessary to provide commercially sensitive data as part of the evidence submitted with the application. This will be covered by the confidentiality clauses in the Track Access Contract.
- 5.6 If the operator has yet to enter into a Track Access Contract, for example in the case of an open access aspirant operator, then it may be necessary to enter into a Non-Disclosure Agreement if required by the operator.

## 6 Decisions and implementation

### Access Charges Discount Panel (ACDP)

#### Remit

- 6.1 In order to make fair, robust and consistent decisions on applications for discounts, an Access Charges Discounts Panel (ACDP) has been created. It is chaired by Network Rail's Director of Planning & Regulation, who is responsible for Network Rail's access charge policy. The Panel will include representatives of the System Operator and relevant Regions.
- 6.2 The ACDP will meet as required to review discount applications and to decide the following:
  - a) does the discount application meet the qualifying criteria to be considered for a discount (see section 3);
  - b) does the evidence presented adequately demonstrate a valid business need for the discount (see section 5); and
  - c) Are there any other exogenous factors that need to be considered.

#### Operator and Customer team attendance

- 6.3 Network Rail is committed to making the discount application process as transparent and efficient as possible. To that end, operators and / or their Network Rail customer account team representatives will be given the option to attend the ACDP and present their applications and answer clarifying questions in person.
- 6.4 Decisions will be communicated in writing by the ACDP and will either:
  - a) Approve the discount application;
  - b) Reject the discount application; or
  - c) Request further supporting information.
- 6.5 Please refer to paragraph 7.7 for more details on ACDP decisions.

## 7 Terms and conditions

- 7.1 As previously stated, the A&MRs stipulate that the infrastructure manager **may** introduce discounting schemes in certain circumstances. The provision of discounts to our access charges is not a regulatory requirement.
- 7.2 In CP7, for several reasons, including feedback from customers and facilitating challenging growth targets, we have chosen to introduce a discount scheme.

### Termination of the discount policy

- 7.3 As detailed in section 1 - Funding, no explicit provision for the discount scheme has been made in Network Rail's funding settlement for CP7. Therefore, the financial implications of this discount policy will be kept under review, and Network Rail may choose to review and revise the policy or withdraw the policy at any time.
- 7.4 Should the discount policy be withdrawn during CP7, any discount applications which are either;
- a) 'in progress' i.e. the traffic is running, and the discount is being actively applied to an operator's Track Access Billing System (TABS) files; or
  - b) 'approved' by the Access Charges Discount Panel (ACDP) but which has yet to start operating;

will be honoured subject to paragraph 7.5.

### Timing

- 7.5 Subject to paragraph 7.3 (i.e. the policy being withdrawn), applications may only be submitted up to the end of year 4 of CP7. No applications will be accepted in the final year of CP7, but this position may change depending on experience with the policy during CP7 and future circumstances.
- 7.6 Discounts approved under this policy will only apply to CP7. In the event that the traffic associated with an 'approved' application begins within the final seven periods of CP7, the discount will be implemented for the remainder of the control period only. Where the traffic does not materialise within CP7, a new application will have to be made if and when the discount policy reopens in control period 8 (CP8).

### ACDP decisions

- 7.7 Decisions arrived at by Network Rail and its ACDP are final. This policy does not afford an opportunity to appeal any decisions made by the ACDP. Where applicable, and for the avoidance of doubt, in the event of any dispute between Network Rail and the operator, the Track Access Contract will apply, including the option for the operator to dispute the decision directly to the ORR.

## 8 Help with discount applications

- 8.1 We appreciate that with any new policy there will be questions that we have yet to consider and capture in this document. In the first instance, and for any billing or implementation queries for successful applications, operators should speak with their Network Rail customer account team representative, but should the need arise, please see Table 3 below containing some contacts within Network Rail who should be able to assist with your query.

Table 3 – Network Rail contact details.

Contact name	Area of expertise	Contact details
Head of Regulatory Economics / Regulatory Economics Manager	Policy and advice	Caitlin.Scarlett@networkrail.co.uk
Lead Strategic Planner, Team Railfreight	Criteria and eligibility	Andrew.Bradford@gbrtt.co.uk

## 9 Version Control

- 9.1 The date this document was published, and its version number, are shown on the cover page. This document will be kept under review and may be updated, from time to time, to improve the information and guidance we provide to operators based on feedback and our own experience administering the policy.
- 9.2 Table 4 below will be updated as required and detail the changes made with each iteration of this policy document.

Table 4 – Version control.

Version number	Description of change	Date of version
1.0	Original CP7 version	09 August 2024