Public Submission by
Alcoa World Alumina Australia
on the Draft Determination of Over Payment Rules
to Apply to WestNet Rail

Prepared for:

Rail Access Regulator
Office of the Rail Access Regulator
Level 27, 197 St Georges Tce
PERTH WA 6000

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1. EXECUTIVE SUMMARY

Alcoa has reviewed the Draft Determination on the Overpayment Rules and considers that there are fundamental problems with two aspects of the proposed rules:

Revenue Allocation

The revenue allocation methodology proposed in the Draft Determination could distort revenues on main lines by allowing allocation of revenues up to the ceiling on the branch lines. This would allow WestNet to collect additional revenue on the mainline by charging higher access fees to other operators on the mainline. This distortion can only be corrected by a fair pricing test on each route section to ensure that other operators are not paying too much for access.

Recommendations

The Regulator should make it clear to all operators that they have the option to fix revenue allocation in their access agreements if they do not want the revenue allocation methodology in the Draft Determination to apply. The Overpayment Rules should clearly state that this option is available to operators.

The Regulator should establish the link between revenue allocation and fair pricing to ensure that price distortions do not occur as a result of the revenue allocation methodology proposed in the Draft Determination.

Overpayments Formula

The overpayments formula applied by a nominated route[1] rather than by individual route section has the following problems:

- The formula requires the selection of an operator as the trigger to identify the nominated route for the calculation. It is our opinion that overpayments are not triggered by one operator, they are the result of all operators payments on a route section exceeding the ceiling on that route section;

[1] For the purposed of this submission, we have defined **Nominated Route** as the operator's route which is chosen by WestNet as having "triggered" the overpayment

- The formula does not address the case where there is more than one trigger event (potentially by another operator) in a 12 month period;

- The formula is dependent on the allocation of revenues for other operators into or out of the nominated route where these operators only share part of the nominated route and this can be used to change the overpayment allocation to each operator; *and*

- Operators who do not even travel on the route section causing the overpayments may receive an overpayment allocation if they happen to share another common route section with the nominated route.

Recommendation

The overpayment formula proposed should be applied by route section rather than by a nominated route. Once the formula is applied by route section, and the revenue allocation is contractually fixed, all the issues described above, in regards to the current formula, are resolved.

The following recommendations are also made in relation to three other matters raised by our review of the Draft Determination:

Time Horizon for Payments

Recommendation

WestNet should not be entitled to any carryover credit at the end of a three year period as this contradicts the requirements of the Code.

Overpayments and Under-Recoveries

Recommendation

The Regulator needs to consider very carefully the implications which arise from allowing "under-recoveries". Many "under-recoveries" are the result of commercial risks taken by WestNet in the course of its business. Offsetting these "under-recoveries" is converting monopoly profits gained through overpayments into a subsidy to WestNet.

Overpayment Percentage Limit

Recommendation

A more detailed review of the percentage limit is required to determine the required limit to allow for unplanned peaks in payments in a three year period. Based on Alcoa's predicted variability, this should be 3%, not 10%.

2. INTRODUCTION

In accordance with the requirements of Section 47 of the Railways (Access) Code 2000, on 28 June 2002, the Office of the Rail Access Regulator (ORAR) released its Draft Determination of the Over-Payment Rules to Apply to WestNet Rail. Interested parties were invited to examine the document and provide comments to the Regulator by 2 August 2002.

References marked **[DD]** in the text are references to sections of the Draft Determination on the Overpayment Rules to apply to WestNet Rail issued by the Regulator on the 28 June 2002.

As the Draft Determination and the WestNet Overpayment Rules were released at the same time, there has been no period of examination of the original WestNet document prior to the release of the Regulator's Draft Determination. This has made it difficult to understand many of the comments in the Draft Determination which would appear to be the result of discussions between WestNet and the Regulator rather than commentary on the original document submitted by WestNet.

Since the release of the Draft Determination on the Overpayment Rules, we have had two meetings with the ORAR to seek explanations on the issues surrounding the use of the overpayment formula on a route basis rather than a route section basis and also to understand the reasons behind a revenue allocation methodology. It has become clear since these discussions that many points relating to the operation of these methodologies are not fully explained in the Draft Determination. In order to follow the sequence of events which has lead up to this submission, readers need to understand the "additional information" which was provided during our meetings with ORAR. The following section provides the background to these meetings and then Section 4 is our response to the Draft Determination and is written on the basis that the information provided in Section 3 is available to all parties.

If any further explanation of any of the views expressed in this submission is required, please contact: Mr. John Oliver, Transportation and Logistics Manager, Alcoa World Alumina Australia tel: 08 9316 5406, fax: 08 9316 5162

3. CLARIFICATIONS SOUGHT ON THE DRAFT DETERMINATION

Note that this section does not seek to provide Alcoa's comments on the discussions with ORAR but merely to report them as our understanding of the Regulator's position. Alcoa's comments on the Regulator's Draft Determination are discussed in Section 4.

Following the release of the Draft Determination, our consultants sought a meeting with ORAR to clarify the operation of the overpayment formula. The following explanation was provided:

> Where overpayments occur on a particular route section, the method for calculating the refund requires revenues to be allocated on individual route sections according to the methodology in the Draft Determination:

- first allocating revenues to each route section to offset the floor prices for each operator on each section;
- then allocating revenues up to the ceiling on branch lines; and
- then allocating revenues up to the ceiling on the main lines.

> Following this allocation process, the revenues allocated (plus the overpayment) on the nominated route for the operator who "triggered" the overpayment is used in the overpayment formula. This will provide a refund for each operator who accesses all or any part of that nominated route. This method ensures that the overpayment refund is biased in favour of the operator who "triggered" the overpayment.

After further modeling of this overpayment calculation and the revenue allocation principles, we were not convinced of the fairness of this method of allocation of overpayments and so a further meeting was requested by Alcoa to again seek clarification of the intent of using a single operator's route (a nominated route) as the base for calculating overpayments. At this same meeting, we also sought clarification on the inclusion of "operator contributions" in the overpayments formula. The following explanations were provided:

3.1. Revenue Allocation

Initially, Alcoa was concerned that the Regulator was allowing WestNet discretion in allocating revenue within an entire route (entry point to exit point) even though pricing for the various route sections comprising the service route may have been previously agreed between WestNet and the operator. This discretion would enable WestNet to “shift” revenue from highly trafficked route sections to branch or feeder lines and allow WestNet to potentially collect additional revenue on busy route sections without exceeding the ceiling on any route section. (Alcoa saw this as "gaming").

ORAR has explained that if an operator chooses to agree on an access charge for each and every route section then WestNet has no discretion to allocate revenues other than those agreed with the operator.

Following these discussions, our understanding now is that:

- When negotiating pricing with WestNet, operators may negotiate one price over their entire route or they may choose to specify a breakdown of the pricing for each route section that makes up their entire route.

- If the operator chooses to negotiate pricing for each route section on the entire route, then WestNet must allocate revenue as specified by the negotiated pricing. In this case, WestNet does not have the option of allocating revenue using the Regulator’s proposed methodology.

- If, however, the operator has chosen to negotiate only one price over the entire route and chooses not to specify the pricing over individual route sections that make up the entire route, then WestNet has the flexibility of allocating revenue within the constraints of the methodology specified by the Regulator.

3.2. Operator Contributed Assets

Alcoa’s initial concern was that neither the Draft Determination on the Costing Principles nor the Draft Determination on Overpayment Rules addressed the issue of how operators would be compensated for contributing towards the upgrade of the network (e.g. by contributing towards the construction of new infrastructure). At one stage, we thought that the only area where compensation for operator contributions was addressed was in the overpayments formula.

Following discussions with the ORAR, it is now Alcoa's understanding that:

- **The Regulator will not be involved in determining how an operator, who funds railway infrastructure assets, will be compensated.** This issue of funding and compensation is to be agreed between the operator and WestNet and may include an agreement where the operator receives some offsetting benefit (e.g. a reduced rate, higher service level etc.) to compensate for the operator's funding of the new infrastructure.

- However, if there is a situation where WestNet has negotiated a lower rate, for example, to compensate for the operator's funding of infrastructure, WestNet is obliged to provide details of the agreement to the Regulator so that the Regulator is able to consider the effect of any discounts or other incentives if he is required to give his opinion on price to another operator.

- ORAR has further explained that the inclusion of an operator's contribution in the overpayments formula is not intended to be a method of compensating operators for their investment. The reason that the operator's contributions are added to the operator's annual payments in the overpayments formula is to ensure that, in the situation where there is an overpayment, the operator is not penalised (in terms of reduced refunds from overpayments) because his access charge has been reduced as a result of an agreed discount on access charges resulting from his asset contribution.

3.3. Overpayments

Alcoa understands that it is the intention of the Regulator that overpayments are only allowed in the situation where there is unexpected excess revenue. If WestNet can foresee a steady increase in revenue or a lift in revenue (e.g. from a new operator coming on the line) which would take revenue over the ceiling, WestNet must negotiate with all operators on that route section and reduce pricing so that the ceiling is not breached.

ORAR has stated that the overpayments formula is by operator's route because WestNet is allowed to allocate revenue between route sections within that route.

4. ALCOA'S RESPONSE TO THE DRAFT DETERMINATION

4.1. Revenue Allocation Methodology [DD Section 3(6) Page 7]

The current revenue allocation methodology states that WestNet may allocate revenue to applicable route sections in the following order:

- Incremental costs against all applicable route sections;
- Up to the ceiling costs on all applicable branch or feeder (dedicated) route sections;
- Up to the ceiling costs on all applicable route sections.

In addition, the Regulator has stated that he will monitor the manner in which WestNet allocates its revenue to determine whether WestNet is "gaming" in a manner that does more than simply recover its legitimate costs and maximise the efficient and economic use of the railway infrastructure.

As discussed in the previous section, the Regulator has also stated that operators may choose to allocate their revenue in another way by negotiation with WestNet or they may choose to allow WestNet revenue allocation discretion (using the Regulator's methodology).

Alcoa does not believe that the Regulator's proposed revenue allocation methodology is adequate because it provides WestNet with many opportunities for gaming:

- By allowing WestNet to allocate revenue (using the Regulator's methodology), WestNet's ability to collect more revenue is increased at the possible expense of other operators. This is shown in Example 1 in the Appendices.

- If WestNet is allowed to allocate revenue as per the Regulator's proposed methodology, operators whose entire route includes dedicated route sections may pay less on busy route sections compared to operators who only use busy route sections as WestNet cannot shift revenue in the latter case (see Example 2 in the Appendices). This would result in unfair pricing over the busy route sections and operators who only travel busy route sections may be subsidising those whose entire route included dedicated route sections.

- This revenue allocation methodology can also be used to bias the proportion of refunds towards one operator at the expense of other operators. This issue is discussed in detail in the next section *Overpayments Formula* and is illustrated by Example 3 in the Appendices.

To remove the possibilities of gaming, the revenue allocation methodology and the overpayment formula should be modified to accurately reflect the route section nature of overpayments. The only basis for monitoring "gaming" activity would seem to be a "fair pricing" argument which would address disparate pricing on the same section of line only in the case where operators were operating in the same market in which case the difference in access prices *"...must only reflect a difference between them in the costs or risks associated with the provision of access"*[2]. As stated previously, fair pricing should form part of the revenue allocation methodology.

Recommendation

The Regulator should approve a revenue allocation methodology which inherently prevents "gaming" and does not rely on a monitoring of WestNet's actions after the event to ascertain if "gaming" occurred.

4.2. Overpayments Formula [DD Section 4 Page 8]

Alcoa agrees that the fundamental components of the overpayments formula are correct in that each operator receives a percentage of the overpayment in proportion to their original contributions to revenue. However, **we strongly disagree with the use of this formula over a selected operator's route rather than by route section**. There are a number of reasons for our objections:

1. Calculating overpayments over one operator's route (in this case the operator who by the Regulator's definition "triggered" the overpayment) ignores the fact that all operators on a route section contribute to the overpayment. No one operator is responsible for an overpayment just because they happen to

[2] Railways (Access) Code 2000 Schedule 4 Clause 13 (b)

be the last operator to join or happen to increase tonnage today rather than last month. It is only because all the operators are contributing simultaneously that there is an overpayment. Therefore, any overpayments on a route section should be shared between all operators on the route section in a fair manner. It is incorrect to bias calculations towards the operator who happened to push revenue over the ceiling.

2. Furthermore, the methodology does not consider that there may be multiple “triggers” in a year - not just one. Selecting the operator who "triggered" the overpayment could constitute "gaming" as it could be used to selectively enhance overpayments to a particular operator.

3. It is stated that WestNet is allowed to allocate revenue to each route section within the rules of the Draft Determination. To determine the overpayments allocation to each operator, the overpayment calculation is done on a route basis. The effect of the route based formula is that, though the revenue allocation of the nominated operator is irrelevant, the revenue allocation of the other operators can be used to distort the proportion of repayments to all operators. This ability to distort repayments could be used to inflate the proportion of repayments allocated to the nominated operator to the detriment of the other operators. Refer to Example 3 in the Appendices for an illustration of how this may occur.

4. An operator (X) may receive a payment back from WestNet as a result of overpayments which occur on a route section on which he does not even travel. This may occur if the route section with the overpayment was part of the route of the operator (Y) deemed to have caused the overpayment and operator (X) and operator (Y) share another route section. See Example 4 in the Appendices.

Generally, it is unclear why the proposed formula is calculated on a route basis when all other calculations such as floor and ceiling pricing and revenue overpayment are reported on a route section basis. We have concluded that the overpayment formula is being used on a route basis because of the decision to allow revenue allocation within a route. However, we consider that adopting a route based formula fails to counteract the negative effects of the revenue allocation methodology as it further distorts refunds and also introduces the possibility of "gaming" into the allocation.

Alcoa maintains that all the issues and queries stated above would be removed if the overpayments formula was calculated by route section provided the revenue allocation was enhanced to incorporate fair pricing as recommended in the previous section on *Revenue Allocation Methodology.*

Recommendation

To achieve an acceptable solution, the revenue allocation methodology needs to be enhanced as discussed previously. Provided this is done, the overpayments formula proposed should be applied by route section rather than by a nominated route. Once the formula is applied by route section, all the issues Alcoa has described, in regards to the current formula proposed, are resolved.

4.3. Time Horizon for Overpayments [DD Section 3(5) Page 7]

Alcoa agrees with the Regulator that the Code explicitly states that overpayments must be zero at the end of each 3 year period and therefore WestNet must resolve overpayments within this time frame.

We do not agree with the Regulator that there could be any exceptions to this rule. The suggestion that there are any circumstances which justify a carry forward of under-recoveries into the following three year period has no support within the Code. The Code clearly states that:

- any excess over the limit must be corrected immediately – in fact, it goes further and stated that *"it must at all times be within the limit"*[3]; and
- "*at the expiry of each successive period of 3 years….there must be no such excess in respect of that operator or group of operators"*[4]

This means that:

- any excess over the limit is not allowed and therefore that excess must be returned immediately and there can be no offset to this portion of the overpayment; and

[3] Railways (Access) Code 2000 Clause 47 (2) (a) page 32
[4] Railways (Access) Code 2000 Clause 47 (2) (b) page 33

- any overpayments within the % limit must be eliminated by the end of the 3 year period. If not corrected earlier, this could be achieved by a refund at the end of year 3 if necessary.

Recommendation

WestNet should not be entitled to any carryover credit at the end of a three year period as this contradicts the requirements of the Code.

4.4. Overpayments and Under-Recoveries [DD Section 3(5) Page 6]

Alcoa is of the view that "under-recoveries" do not exist. The total payments to the railway owner may be under the ceiling for a myriad of reasons - some will be related to variations in customer demand as a result of global markets or variations in production, (e.g. harvest size, refinery output etc.), some may be due to WestNet's own actions (e.g. lower prices, track upgrades causing reduced capacity) and some may be force majeure events which are outside everyone's control. **These are not necessarily under-recoveries. In most cases they are commercial risks accepted by WestNet and the operator within the terms and conditions of their access agreement.** To suggest that overpayments should be mitigated by some of the reasons given above is unacceptable.

Furthermore, if the definition proposed by the Regulator is used, we consider that there will seldom, if ever, be an overpayment (within the Regulator's 10% band) which will not be offset by all of the "under-recoveries" which occur at times throughout a three year period. The potential for under-recoveries to occur in the normal course of business is many times higher than the occurrence of an overpayment. Since this is the case, the decision to allow "under-recoveries" to offset overpayments means that effectively the ceiling has now been lifted by 10% and there is no prospect of any overpayment being refunded unless payments exceed 110% of the ceiling.

Recommendation

The Regulator needs to consider very carefully the implications which arise from allowing "under-recoveries". Many "under-recoveries" are the result of commercial risks taken by WestNet in the course of its business. Offsetting these "under-recoveries" is converting monopoly profits gained through overpayments into a subsidy to WestNet.

4.5. Overpayment Percentage Limit

The Code states that overpayments *"…must at all times be within a limit, being a percentage of the relevant costs…"*[5]. WestNet, in its original submission, proposed that this limit be 5%. The Regulator has stated in his Draft Determination that the allowable percentage of the relevant costs as stated in Section 47 of the Code is to be 10%.

The ORAR believes that a higher limit was required to capture the unplanned peaks based on historical data from Westrail's accounts. To allay the concerns that operators may have with the higher percentage, the Regulator has introduced the concept of a trust account with all interest accruing to the benefit of the operators. The extra 5% is seen as compensating WestNet by reducing the number of peaks which might exceed the percentage limit.

Alcoa does not accept this as a reason for increasing the percentage given our view that there will never be any payments to operators if "under-recoveries" are permitted.

It is difficult to believe that a 10% band is necessary because, in the Draft Determination, only unplanned overpayments are under consideration and, over the period of a year, the unplanned overpayments are offset against all "under-recoveries". As discussed in the previous section *Overpayments and Under-Recoveries*, there will usually be more under-recoveries than overpayments over a period of a year and therefore WestNet will always be able to offset most if not all overpayments within the band i.e. the overpayment at the end of each year should be almost always be zero.

As a large user on a busy main line (likely to reach the ceiling on some sections) Alcoa's revenue pattern provides a good indication of the variability that WestNet may experience on a line at or reaching the ceiling. The characteristics of Alcoa's revenue pattern are:

- Any significant increases are planned and therefore would not be allowable as an overpayment;

[5] Railways (Access) Code 2000 Clause 47 (2) (a) page 32

- Alcoa has limited ability to increase railing in the short term owing to rollingstock fleet size limitations – over a year, we have calculated that the maximum increase in revenue due to unplanned events cannot exceed 3%. *Note that this figure of 3% assumes maximum railing of all commodities and no reduced railing any time during the year – an unlikely worst case scenario*;

On this basis, we consider that a 10% limit is excessive and suggest that a figure nearer 3% would be more acceptable. We would also suggest that reducing the limit has the secondary effect of reducing the total accruals which would need to be held in trust to the point where the expense of operating and maintaining a Trust Account may be unnecessary and WestNet could accrue the overpayments in its own accounts.

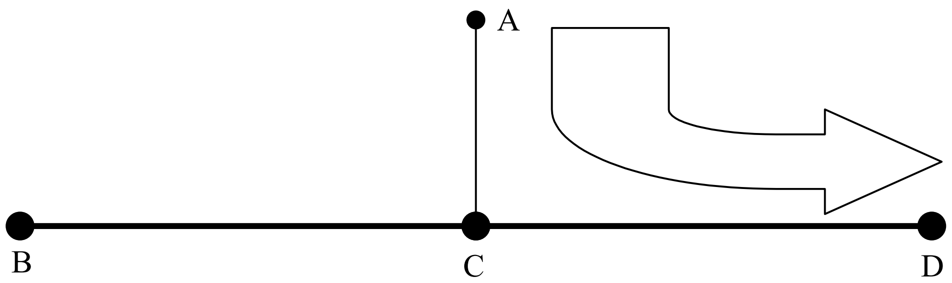
Recommendation

A more detailed review of the percentage limit is required to determine the required limit to allow for unplanned peaks in payments in a three year period. Based on Alcoa's predicted variability, this should be 3%, not 10%.

APPENDICES

Example 1

Example 1 aims to illustrate the importance of operators being informed in regards to considering their own revenue allocation rather than allowing WestNet to allocate revenue as per the proposed revenue allocation methodology. This example illustrates a possible scenario where WestNet is allowed to earn more revenue at the expense of better rates for operators.



Take for example three route sections, AC (branch/feeder/dedicated), BC (mainline) and CD (mainline). Say we have an operator travelling on AC and CD.

Say that:

Assumptions	AC	CD
Ceiling	$2M	$3M
Floor	$0.5M	$0.5M
Other revenue	Zero	$1.5M

Let's say that the negotiated pricing for the route AD is $2.5M total.

Possible revenue allocations	Pricing on AC	Pricing on CD	Total Price
Case 1: If the operator chooses to negotiate with WestNet to fix pricing by route section	$1M	$1.5M	$2.5M
Case 2: If WestNet has the flexibility to allocate revenue	$2M	$0.5M	$2.5M

In each case, the total amount paid by the operator for access is the same $2.5M.

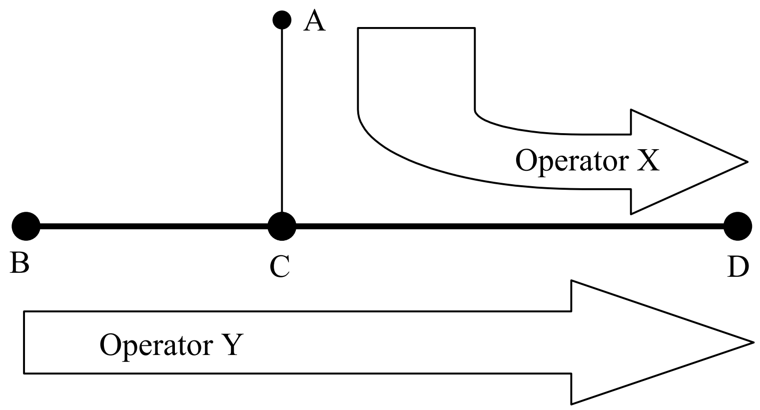
In case 1, WestNet has reached the ceiling on CD and therefore if there is any more traffic on CD in the future, operator(s) may receive discounts to their rates.

However, in Case 2, WestNet now has the ability to earn an extra $1M before the revenue reaches the ceiling. Operator(s) will not receive discounts if there is an increase in traffic on CD.

This example illustrates the importance of operators considering their own revenue allocation.

Example 2

If WestNet is allowed to allocate revenue as per the Regulator's proposed methodology, operators whose entire route includes dedicated route sections may pay less on busy route sections compared to operators only using busy route sections.



In this example, the following assumptions are made:

Assumptions	**AC**	**BC**	**CD**
Ceiling	$2M	$2M	$3M
Floor	$0.5M	$0.5M	$0.5M

Assume there are two operators X and Y.

Assume that Operator X and Y are similar users (same market, same tonnage railed, same distance travelled to port).

As illustrated in the table below, if fair pricing is not considered in the revenue allocation methodology (and the operator chooses to allow WestNet revenue allocation discretion) then one of the possibilities is that Operator X will pay less (in terms of the GTK rate) than Operator Y on CD simply because part of Operator X's entire route comprises a dedicated section to which WestNet has been able to "shift" revenue.

	Operator X	**Operator Y**
Pricing on AC	$2M	N/A
Pricing on BC	N/A	$1M
Pricing on CD	**$0.5M**	**$1.5M**
Total Price	$2.5M	$2.5M

Same tonnes
Same distance
Same market

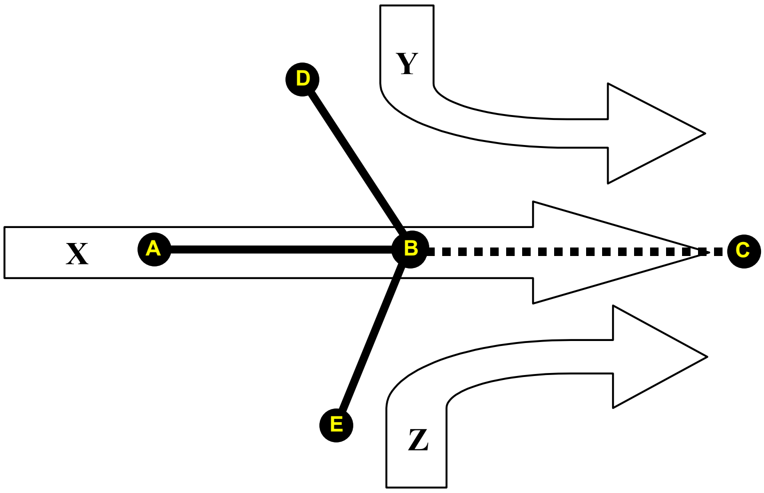
= Unfair Pricing

Using the Regulator's proposed revenue allocation methodology, the price difference between Operators X and Y over CD may be acceptable but this assumes that a fair pricing test is not a requirement of the revenue allocation methodology.

However, we would argue that in this case Operator Y may be indirectly subsidising Operator X's dedicated route section because if fair pricing was considered, Operator Y should also be able to obtain access for $0.5M on CD and pay $1M less.

Example 3

This example shows how the results of the overpayments formula can be altered to favour one party by changing the revenue allocation of operators using part of the nominated route.



The proposed overpayments formula is:

$$\text{Payment to an operator} = \frac{\text{(An operator's annual payments +contributions)}}{\text{(Total annual payments+contributions received by the railway owner)}} \times \text{(Amount of net over-payment and interest for the route)}$$

CASE 1

The payments to the railway owner are as shown in the table below:

Operator	Payments on route section with overpayments (BC)	Payments on the remainder of the Operator's route	Total payments
Operator X	$1M	$9M	$10M
Operator Y	$500K	$500K	$1M
Operator Z	$40K	$60K	$100K

Assuming that Operator Y is the determined "trigger" for the overpayment. Using the formula for route DC, the following allocation of repayments results:

Route on which to use formula	% overpayments repaid to Operator X	% overpayments repaid to Operator Y	% overpayments repaid to Operator Z
DC	49%	49%	2%

The calculations are in the table below.

Choose route on which to use formula ↓	% overpayments repaid to Operator X	% overpayments repaid to Operator Y	% overpayments repaid to Operator Z
DC	$\frac{1M}{(1M + 1M + 40K)}$	$\frac{1M}{(1M + 1M + 40K)}$	$\frac{40K}{(1M + 1M + 40K)}$

CASE 2

If the revenue allocation for Operator X is altered (in this case swapped) and the payments to the railway owner are as shown in the table below:

Operator	Payments on route section with overpayments (BC)	Payments on the remainder of the Operator's route	Total payments
Operator X	$9M	$1M	$10M
Operator Y	$500K	$500K	$1M
Operator Z	$40K	$60K	$100K

Now the results of the overpayment calculation have changed to:

Route on which to use formula	% overpayments repaid to Operator X	% overpayments repaid to Operator Y	% overpayments repaid to Operator Z
DC	89.6%	10%	0.4%

The calculations are in the table below.

Route on which to use formula	% overpayments repaid to Operator X	% overpayments repaid to Operator Y	% overpayments repaid to Operator Z
DC	$\frac{9M}{(9M + 1M + 40K)}$	$\frac{1M}{(9M + 1M + 40K)}$	$\frac{40K}{(9M + 1M + 40K)}$

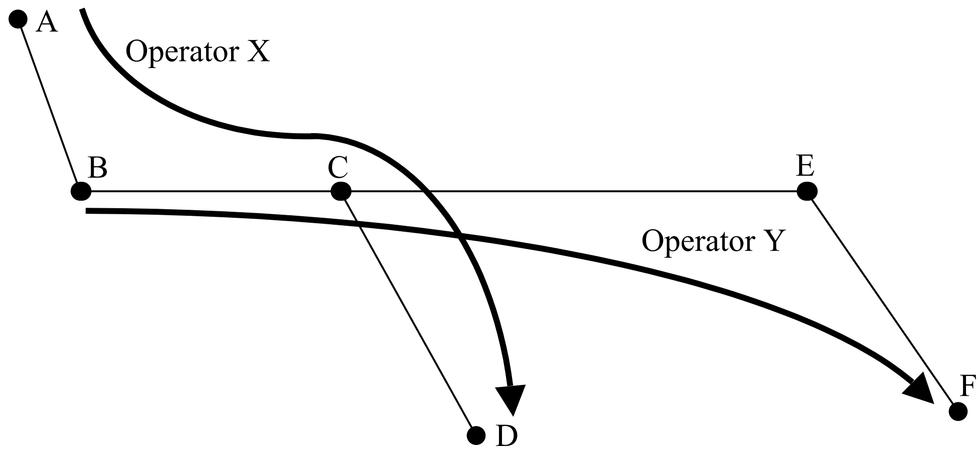
Compared to the revenue allocation in Case 1, Operator X benefits by receiving a larger proportion of the repayments at the expense of the other two operators.

Here we can see that the allocation of repayments can be altered significantly by changing the revenue allocation of another operator who was nominated as the "trigger".

Example 4

The overpayments formula proposed by the Regulator is to be calculated for the nominated operator's route. The nominated route is the route of the operator which is determined to have triggered the overpayment.

This example illustrates the case where an operator may benefit from the repayment of overpayments which occurred on a route section on which he does not travel. This may occur if an operator shares part of the nominated route which includes the route section on which overpayments have occurred.



Consider Operator X travelling on ABCD and Operator Y travelling on BCEF.

In this example, overpayments have occurred on CE and Operator Y's route BCEF has been selected as the "trigger" for the overpayments.

In this case Operator X will receive some payments back as he travels on BC which is part of BCEF even though he does not travel on CE, the route section with overpayments.

Route Section	Operator X payments	Operator Y payments	Payments from other operators	Total Payments	Overpayment
AB	$20M	N/A	N/A	$20M	Zero
BC	$10M	$10M	$10M	$30M	Zero
CD	$20M	N/A	N/A	$20M	Zero
CE	N/A	$15M	$10M	$25M	$5M
EF	N/A	$20M	N/A	$20M	Zero

In this example, assume overpayments have occurred on CE and it is determined that they have been triggered by Operator Y.

The calculations based on the overpayments formula are:

Route on which to use formula	% overpayments repaid to Operator X	% overpayments repaid to Operator Y	% overpayments repaid to other operators
BCEF	10M (30M + 25M +20M)	45M (30M + 25M +20M)	20M (30M + 25M +20M)

The results of these calculations are shown below together with the repayment figure in dollars based on the $5 million overpayment assumed above:

Route on which to use formula	% overpayments repaid to Operator X	% overpayments repaid to Operator Y	% overpayments repaid to other operators
BCEF	13% (= $650,000)	60% (= $3,000,000)	27%(= $1,350,000)

In this example, Operator X receives 14% of the refunded overpayment or $650,000 even though the overpayment occurred on a route section which Operator X does not use.

If this same example is recalculated on a route section basis, the following would be the result:

Route Section	% overpayments repaid to Operator X	% overpayments repaid to Operator Y	% overpayments repaid to other operators
CE	Route not used - No repayment	15M 25M	10M 25M

The results of these calculations are shown below together with the repayment figure in dollars based on the $5 million overpayment assumed above:

Route Section	% overpayments repaid to Operator X	% overpayments repaid to Operator Y	% overpayments repaid to other operators
CE	0% (= $ 0)	60%(= $3,000,000)	40%(= $2,000,000)