

Question:	Response:
Why is Network Rail's money being used for this purpose when sites were gifted to EWS ?	<p>The sites were not "gifted" to EWS at privatisation. To the extent that the leases for these sites were vested in freight companies at privatisation, the price paid by the purchasers to acquire those companies reflected the market's perception of the value of those sites.</p> <p>The operational and commercial benefits which will be receivable by Network Rail following completion of the transaction generates the required return on the NR investment. The transaction is self funding.</p> <p>This proposal seeks to address longstanding industry concerns about possible impacts which control of key sites may have on downstream freight operations.</p>
Could the loss of alienation terms in leases of end user tenanted freight sites reduce the end users haulage rate negotiating power?	<p>The proposed separation of landlord and haulier responsibility introduces the potential for a greater level of competition for haulage.</p> <p>The Consultation refers to the provisions to be included in the varied lease of the track network which will be retained by DBSR. These include "Use It Or Lose It" provisions which link the term of that track lease to the end if its haulage contract with the end user &amp; in any case provide for the end user to assume tenure of such track.</p>
What is the impact of the transaction on end user leases?	<p>There will be no change to the terms of the end user lease. The occupation of freight sites by end users is governed by the leases end users have entered into, Network Rail will become end users landlords rather than DBS.</p>
Are there individual site plans available?	<p>We can provide a CD of the full set of coloured schematic plans produced if requested.</p> <p>Such plans exist for the purpose of illustrating the proposed division of sites featuring more than one category (for example, if a site is being divided into a Network Nodal Yard and FOC Operational Hub, then a schematic plan will be available to show that division). Such plans have not been produced for single category sites (so for example there are no plans showing DBSR off network track at an End User Tenanted Site).</p>
What will the new leases look like & how robust will the UIOLI provisions be?	<p>DBS tenure at a given location will be by way of a Deed of Variation of their existing leases . New lease templates for other parties tenure of released sites will be developed. Both will be based upon the principles set out in the Consultation document.</p> <p>As stated in the Consultation, we welcome constructive industry contribution to the refinement of the proposed UIOLI provisions - the principle is to protect against any party 'sitting' on a site to frustrate another party's operational need. We also welcome comments in respect of any other aspects of the proposed lease templates.</p> <p>Notably the principles of the UIOLI provisions will apply to any subsequent lease templates to FOCs and end users of any sites within scope.</p>
Will other FOCs and End Users enjoy the same lease terms as DBS on sites released by this transaction going forward?	<p>Similar principles will be used for the terms of subsequent leases, but with changes as necessary for example, the Consultation refers to the need for additional provisions in an end user lease of track.</p> <p>Some particular terms have been negotiated with DBSR in respect of variations of their existing leases - for example, the 35 year deferred liability to pay rent in respect of FOC Operational Hubs leases of traction maintenance depots and wagon repair depots/sites with capital assets; and continuation of the peppercorn rent for FOC Operational Hubs used as sidings for marshalling etc. This reflects the overall business case for the transaction. In respect of any new leases granted of FOC Operational Hubs in the future (for example, where any FOC (including DBSR) wishes to take a lease of a Freight Reserved Site to establish a FOC Operational Hub) the position is a market rent will be reserved.</p> <p>Although each proposal to use sidings will be assessed on its own merits, it is NR's intention that in instances where there is no identifiable value, then the lease of such sidings simply used for the stabling of traffic (so no loading or other activity) could be offered at a peppercorn rate.</p>
With regards to Terminals - what is the basis of DBS tenure and how would tendering for terminal operation work?	<p>DBS tenure will be made subject to Use it or Lose It provisions. We welcome constructive industry contribution to the refinement of the proposed UIOLI provisions.</p> <p>The mechanism for subsequent tender for new occupancy and operation of the Euroterminals following any termination of the DBS lease is yet to be determined, but potentially could be informed by established UK practice for operator tendering employed by the likes of DIRFT, Telford etc. The governance principles for dealing with competition for Euro terminals will need to be developed post Consultation.</p>
Why doesn't NR use existing lease cessation clauses to terminate DBS' leases?	<p>Industry experience is that these provisions are not straightforward to operate . In any case, using them would at best result in a gradual and piecemeal return of sites to NR. Nor would it enable the achievement of all the objectives of the proposal referred to in the Consultation - for example, the move to achieve a greater separation between control of sites and arrangements for haulage.</p>
Will so called "ransom strips" be eliminated?	<p>So called ransom strips have been identified as a concern where a particular haulage contract opportunity requires access to a site and that site is controlled by a FOC. As referred to in the Consultation, one of the objectives of this proposal is to try to facilitate a greater separation between control of sites and arrangements for haulage. The proposal provides for end users to take tenure of and assume FO status for the off-network tracks related to their sites. Moreover, for sites featuring a proposed subdivision there will be no instances whereby a FOC Ops Hub is sited between the national network and an end user or other operators facility.</p>