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Dear Alexandra,

20 September 2013

PR13: OUR DRAFT CONCLUSIONS ON STRUCTURE OF CHARGES AND SCHEDULE 8 PERFORMANCE REGIME FOR CHARTER OPERATORS

This letter contains the response by DB Schenker Rail (UK) Limited ("DB Schenker") to the document entitled "*PR13: Our draft conclusions on structure of charges and Schedule 8 performance regime for charter operators*" issued by Office of Rail Regulation ("ORR") on 23 August 2013 ("the draft conclusions").

Although the operation of charter passenger services by DB Schenker (through its sister company Rail Express Systems Limited ("RES")) forms a small part of its overall business, charter passenger trains have a high profile and meet the unique and bespoke requirements of customers, tourists and promoters which are not served by regular timetabled passenger services. DB Schenker is, therefore, pleased to be invited to comment on the draft conclusions.

Variable Usage Charge (VUC)

DB Schenker supports ORR's draft conclusion to retain the existing approach to charging charter operators based on a notional average 'per train mile' rate for steam operated charter passenger trains and another for non-steam operated charter passenger trains. However, DB Schenker notes that coincidentally, these rates are proposed to be the same for CP5 at £1.05 per train mile (2012/13 prices) following the application of a revised method for calculating the charges and the updating of the underlying assumptions used to derive each rate.

DB Schenker understands the reasons why ORR has included in the draft conclusions the proposal to levy charges on light locomotive movements associated with charter passenger services from the start of CP5. DB Schenker is pleased to note that light engine movements of steam locomotives will incorporate an accompanying support coach, although it has concerns over how Network Rail will identify and, therefore, correctly charge such movements as 'light engines' in its billing system.

Electrification current for traction (EC4T)

DB Schenker acknowledges the proposal in the draft conclusions to levy a traction electricity charge on electrically-hauled charter passenger trains in CP5 based on actual unit electricity prices paid by Network Rail. It also notes the proposal to include charter operators in the year-end traction electricity cost and volume 'wash up' reconciliation processes. Although DB Schenker understands the rationale underlying these proposals, it shares ORR's concerns over the possible administrative complexity that this may cause charter operators, including RES.

Electrification asset usage charge (EAUC)

DB Schenker notes the proposal in the draft conclusions to levy an electrification asset usage charge on electrically-hauled charter passenger trains in CP5 at the rate of £0.72 (dc) per train mile or £1.62 (ac) per train mile (2012/13 prices).

The possessions regime (Schedule 4)

Given that the vast majority of charter passenger trains are timetabled to take account of pre-planned possessions, DB Schenker agrees with the proposal in the draft conclusions that there should be no Schedule 4 regime for charter operators.

Slot and cancellation charges

DB Schenker is content with the proposal in the draft conclusions to continue the current CP4 slot and cancellation charge rates (subject to RPI-uplift) for CP5.

Station charges

DB Schenker notes the comments in the draft conclusions concerning station charges. It is therefore, pleased to note that Network Rail intends to consider and develop DB Schenker's suggestion that in order to improve transparency and demonstrate consistency of treatment between charter operators, Network Rail should develop and publish a tariff of standard charges for commonly requested services where offered at its Managed Stations (e.g. access fee, tanking, rubbish removal etc.). DB Schenker acknowledges that the fees for less commonly asked for/bespoke services would still need to be negotiated on a case by case basis between Network Rail and the charter operator concerned.

Performance regime (Schedule 8)

DB Schenker supports ORR's proposal in the draft determinations to introduce a revised Schedule 8 for charter operators based on "Option 4", which involves the introduction of common benchmarks and payment rates, bonuses for bettering benchmark, a menu of incident caps funded for by access charge supplements, annual caps and annual benchmark adjustments. DB Schenker considers that this package of proposals would

align the Schedule 8 performance regime for charter operators more closely with those benchmarked regimes that already apply to other operators (both passenger and freight).

To implement ORR's proposals, there will obviously need to be further work carried out to set appropriate benchmarks, finalise payment rates and calculate the menu of incident cap access charge supplement rates. Whilst DB Schenker assumes that this work will be carried out by Network Rail, it would hope that there would be opportunity for charter operators to be involved / consulted over its development.

Capacity Charge

DB Schenker notes the proposal in the draft conclusions that a capacity charge will be levied on charter passenger operators in CP5 but that the form and level of such a charge has yet to be finalised. DB Schenker would expect any capacity charge to be introduced in a similar way to the proposal put forward by freight operators in respect of the capacity charge for freight services (i.e. the capacity charge is only levied on activity above a pre-determined benchmark). Furthermore, DB Schenker would certainly also expect the level of flexibility afforded to Network Rail in the timetabling of charter passenger services to be taken fully into account in the level of any capacity charge rate by way of an appropriate discount off the normal capacity charge rates levied on timetabled passenger services.

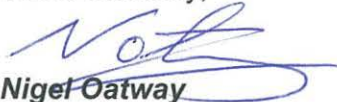
Overall financial impact on charter operators

DB Schenker is pleased that it is expected that the changes to the structure/level of charges levied on charter operators is expected to result in such operators, as a whole, being marginally better off in financial terms than they are at present. However, it is acknowledged that there are still aspects to be finalised, particularly around Schedule 8 and the capacity charge that may have an effect on this expectation.

Implementation

ORR has requested in its related consultation document entitled "*Proposed contractual provisions to implement our draft conclusions on structure of charges and Schedule 8 performance regime for charter operators*" which was published on 13 September 2013 for an early indication of each charter operators preferred process for making amendments to charter track access contracts. Having considered the options available, and despite having previously indicated a preference for terminating contracts early and entering into new contracts before 1 April 2014 (i.e. Option 2), upon further reflection DB Schenker would now advocate the review notice and contract extension option (i.e. Option 1).

Yours sincerely,



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