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9 July 2013

Dear Ben,

**PERIODIC REVIEW 2013 – CONSULTATION ON THE STRUCTURE OF CHARGES
FOR CHARTER OPERATORS IN CP5**

This letter contains the response of DB Schenker Rail (UK) Limited ("DB Schenker") to the consultation entitled "Network Rail consultation: Structure of charges for charter operators in CP5" issued by Network Rail on 28 May 2013.

General Comments

1.1. Although the operation of charter passenger services by DB Schenker (through its sister company Rail Express Systems Limited) 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 review of the charging structure for charter passenger services for CP5 and associated issues.

1.2. DB Schenker notes and acknowledges that the rates proposed for the various charges in the consultation document are indicative and are subject to further change and development.

1.3. In terms of the implementation of any revised structure of charges for charter passenger services in CP5, DB Schenker believes that there would be a considerable saving of time and effort if charter passenger operators could be persuaded to agree to terminate their current track access agreements on 31 March 2014. This would then enable those agreements to be replaced by new track access agreements to be developed for introduction from the start of CP5 incorporating the revised charging structure. This would avoid having to retrofit the revised structure of charges into current track access agreements for what would in effect be a few months until they expire in August 2014.

The Variable Usage Charge

2.1. DB Schenker supports Network Rail's proposal to retain the existing approach to charging charter passenger 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.

2.2. DB Schenker also supports Network Rail's proposal to update the variable usage charge rates for charter passenger services by reference to the variable usage charge rate for the Mark 1 coach, rather than using an average of the Mark 1, 2 & 3 vehicle usage charge rates as is currently the case.

2.3. DB Schenker notes, however, that Network Rail intends to update the variable usage charge rate for steam locomotives to be consistent with the average published rates for Class 98/5 and Class 98/8 steam locomotives with a 2:1 weighting in favour of the latter reflecting frequency of use. Whilst DB Schenker is not opposed to this approach in principle, it considers that the characteristics of the Class 98/5 and Class 98/8 steam locomotives used to inform the level of the vehicle usage charge rate in each particular case requires review. For example, both the Class 98/8 and Class 98/5 steam locomotives are shown to have 4 axles. DB Schenker considers that such locomotives generally have 6 axles in the case of Class 98/8 locomotives and 5 axles in the case of Class 98/5s.

2.4. DB Schenker notes that Network Rail intends to levy charges on light locomotive movements associated with charter passenger services from the start of CP5 and understands its reasons for doing so. The methodology proposed by Network Rail to calculate the variable usage charge rates for steam and non-steam light locomotive movements appears appropriate as it maintains the balance between simplicity and cost reflectivity. DB Schenker does, however, consider that light locomotive movements by steam locomotives should also include the steam locomotive travelling with its support coach.

Traction Electricity Charge

3.1. DB Schenker acknowledges that Network Rail intends 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 that Network Rail proposes to include charter passenger operators in the year-end traction electricity cost and volume 'wash up' reconciliation processes. Given that Network Rail already has the ability to levy traction electricity charges on charter passenger operators and that the proposals are designed to ensure closer alignment with such charges levied on other electrically-hauled services on the network, DB Schenker has no comments its wishes to raise in this respect.

3.2. However, DB Schenker notes Network Rail proposes that charter passenger operators should calculate their own modelled consumption rates in line with agreed methodology. DB Schenker would have thought it would be more appropriate for Network Rail to propose modelled consumption rates for consultation and agreement with

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charter passenger operators. This would then avoid the possibility of two separate charter passenger operators calculating different consumption rates for the same vehicle type.

Electrification Asset Usage Charge

4.1. DB Schenker acknowledges that Network Rail intends to levy an electrification asset usage charge on electrically-hauled charter passenger trains in CP5. Given that Network Rail already has the ability to levy an electrification asset usage charge on charter passenger operators and that the proposals are designed to ensure closer alignment with such charges levied on other electrically-hauled services on the network, DB Schenker has no comments its wishes to raise in this respect.

Slot & Cancellation Charges

5.1. DB Schenker is content with Network Rail's proposals to continue the current CP4 slot and cancellation charge rates (subject to RPI-uplift) for CP5 and, therefore, has no comments to raise on this matter.

Capacity Charge

6.1. DB Schenker notes Network Rail's view that there may be a case for levying a capacity charge on charter passenger operators in the future.

6.2. If it is decided that a capacity charge for charter passenger operators is appropriate, DB Schenker would expect it 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 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.

Schedule 8

7.1. DB Schenker agrees with Network Rail's proposal that a separate charter operator payment rate should be calculated. This is provided that it uses the same methodology that was used to calculate the freight operator payment rate but instead of course based on delays caused by charter passenger services to other services on the network.

7.2. DB Schenker does not agree, however, with Network Rail's proposal to leave intact the other terms of the current charter passenger performance regime. Unlike performance regimes that apply to all other services that operate on the network, the current charter performance regime has no benchmark and, therefore, charter operators are liable for every minute of third party delay below the incident cap without any offsetting incentive or ability to generate bonus payments for improved performance.

7.3. Therefore, DB Schenker considers it would be fair and equitable for the charter passenger performance regime to be revised more fundamentally so that it becomes a benchmarked regime based on an assessment of historic performance. The benchmarks should, as in the case of the freight performance regime, be set as industry benchmarks that are normalised by train miles and, therefore, can be applied equally to all charter operators to avoid any discriminatory effects. Given that the information to derive the benchmarks should be readily available to Network Rail, DB Schenker's proposal should be achievable for implementation from the start of CP5.

7.4. Notwithstanding the above comments, DB Schenker understands that ORR is disposed toward adopting DB Schenker's proposal for a benchmarked charter passenger performance regime from the commencement of CP5 as well as retaining the concept of the 'free' incident cap. DB Schenker is fully supportive of ORR's proposals in this respect and looks forward to working with Network Rail, ORR and other charter passenger operators to develop these proposals further.

Schedule 4

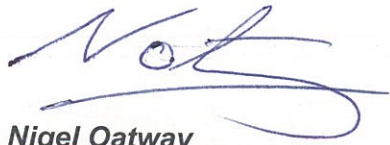
8.1. Given that the vast majority of charter passenger trains are timetabled to take account of pre-planned possessions, DB Schenker agrees with Network Rail's proposal that the Schedule 4 regime should not be extended to include charter passenger services.

Station Charges

9.1. Network Rail remarks in the consultation document that there is not a 'standard' rate for access to Managed Stations as it will depend on the nature of the individual request. However, DB Schenker considers that in order to improve transparency and demonstrate consistency of treatment between charter passenger operators, Network Rail should 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 passenger operator concerned.

9.2. Notwithstanding the above comments, DB Schenker currently negotiates a standard rate for access with Network Rail centrally for application across all of its Managed Stations and not with each Managed Station individually. In DB Schenker's experience, the rates charged for access to Network Rail's Managed Stations are typically double those charged by other Station Facility Owners ("SFOs") despite those SFOs also including operating activities at the station concerned (e.g. train despatch). As Network Rail does not usually provide such services itself, charter passenger operators have to make separate arrangements with other service providers which of course are charged for in addition to the standard fee levied by Network Rail. Therefore, DB Schenker considers that the level of the standard charge for access should be reviewed to ensure it is consistent with that being charged at other large stations across the network.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Nigel Oatway', with a stylized flourish at the end.

Nigel Oatway
Access Manager

cc. Rachel Gilliland Network Rail

