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Dear Colleagues

Network Rail conclusions: Structure of charges for charter operators in CP5

Purpose of this letter

This letter sets out Network Rail's conclusions to ORR in relation to the structure of charges for charter operators in CP5. Following careful consideration of feedback from stakeholders, it concludes on the proposals set out in our May 2013 consultation.

This letter is structured as follows:

- Introduction;
- Background;
- Variable Usage Charge (VUC);
- Electric Current for Traction Charge (EC4T);
- Electrification Asset Usage (EAU) Charge;
- Slot and Cancellation charges ;
- Capacity Charge ;
- Schedule 8 ;
- Schedule 4;
- Station charges;
- Other issues raised by stakeholders;
- Next steps;
- Annex A – circulation list; and
- Annex B - new modelled EC4T consumption rates during CP5

We note that, consistent with passenger and freight track access charges, ultimately, the final decision in relation to the level of track access charges for charter operators in CP5 rests with ORR, rather than Network Rail. ORR is due to publish its Final Determination in relation to the structure of charges for CP5, including with respect to charter operators, in October 2013. Its determination may result in changes to the values in this letter.

Introduction

Charter trains are operated by the five train operators holding Charter Passenger Track Access Agreements (TAAs):

- DB Schenker;
- West Coast Railways;
- Direct Rail Services;
- GB Railfreight; and
- Great Western Trains.

Great Western Trains operates a small number of services each year on the routes already covered within the Great Western Trains TAA. The majority of charter services are operated by DB Schenker and West Coast Railways. These are the only two operators which currently operate steam charter services.

The main distinction between charter services and other open access services is that charter services are typically one-off, bespoke operations, rather than regular passenger services. In addition, often there is an end customer or promoter which charters the train from one of the aforementioned charter train operators.

Charter mileage is approximately 410,000 train miles per annum, of which 303,000 are diesel, 103,000 are steam, and 4,000 are electric. Network Rail received approximately £1.01m in income from these operations in 2012/13 (cash prices).

Background

As part of the 2013 Periodic Review (PR13), Network Rail has, in consultation with the industry, reviewed and proposed re-calibrations to the existing structure of charges for passenger and freight train operators. Further to this review, we provided our conclusions to ORR[1]. We have published a series of conclusions documents and annexed to each of these was a draft CP5 price list (ultimately ORR will determine the level of track access charges in CP5). In its Draft Determination ORR required us to publish updated price lists consistent with its Draft Determination. In July 2013 we published updated price lists[2], as requested.

Schedule 7 of the model passenger[3] and freight[4] TAAs refer to the CP4 published price lists. However, Schedule 7 of the model charter TAA[5] does not refer to these published price lists. Instead, the charge rates for charter operators are incorporated into the body of their TAAs. Schedule 7 of the model charter TAA is broadly consistent with that for passenger and freight operators but takes account of the bespoke nature of charter operations.

In May 2013 we issued a consultation letter in relation to the structure of charges for charter operators in CP5. We received four responses to our May 2013 consultation from the following stakeholders:

- DB Schenker (DBS);

[1] Our consultation and conclusion documents are available at: Closed consultations - Periodic review 2013 - Delivery plans - Network Rail

[2] Available at: Periodic Review 2013 - Delivery Plans - Network Rail

[3] Available at: http://www.rail-reg.gov.uk/upload/pdf/model_passenger_contract.pdf

[4] Available at: http://www.rail-reg.gov.uk/upload/pdf/model-freight-contract.pdf

[5] Available at: http://www.rail-reg.gov.uk/upload/pdf/model_charter_contract_200411.pdf

- Direct Rail Services (DRS);
- First Great Western (FGW); and
- West Coast Railway (WCR).

Network Rail would like to take this opportunity to thank the, above, stakeholders who took the time to respond to the consultation and / or attend the focussed stakeholder session hosted by ORR. We value stakeholders' feedback on all our charging proposals for CP5.

Below, we set out our conclusions in relation to each component of the structure of charges and incentive regimes for charter operators in CP5. We also address other issues raised by stakeholders in response to our consultation.

The Variable Usage Charge (VUC)

Summary of proposal in our consultation

In our consultation we proposed retaining the existing approach to charging charter operators based on notional 'average' charter train sets. However, we proposed the following refinements to the existing assumptions:

- Updating the charge rate for a steam locomotive to be consistent with the average of the published rates for a Class 98/5 and Class 98/8 steam locomotive, with a 2:1 weighting in favour of the Class 98/8, reflecting frequency of use.

- Updating the charge rate for all charter coaches to be consistent with the Mark 1 coach rate on the CP5 published price list.

We also proposed retaining the following assumptions:

- Notional 'average' charter train sets are comprised of a locomotive plus 11 coaches.

- The non-steam locomotive rate should be charged at the average of Class 47 and Class 67 locomotive rates with a 2:1 weighting in favour of the Class 67, reflecting frequency of use.

In addition, we proposed that light locomotive movements should no longer be exempt from the VUC.

Summary of consultation responses

All respondents were either broadly supportive or content with our proposals in relation to refining the VUC for charter operators in CP5.

DBS supported retaining the existing approach to levying the VUC on charter passenger operators based on a notional average 'per train' rate. It also supported our proposal to update this rate such that all coaches are assumed to be Mark 1, rather than an average of Mark 1, Mark 2 and Mark 3. In addition, it did not oppose, in principle, our proposal to update the charge rate for a steam locomotive to be consistent with the average of the published rates for a Class 98/5 and Class 98/8 steam locomotive, with a 2:1 weighting in favour of the Class 98/8. It considered, however, that the characteristics underpinning the steam

locomotive rates required review. In particular, it noted that, at present, both the 98/8 and 98/5 steam locomotives are assumed to have 4 axles. DBS considered a more appropriate assumption would be 6 axles for a 98/8 locomotive and 5 axles for a 98/5 locomotive.

DBS also stated that it understood the reasons for us proposing to levy the VUC on light locomotive movements associated with charter passenger services from the start of CP5. It considered, however, that the locomotive only rate we proposed in our consultation should be extended to include movements with a support coach (currently charge at the full 'per train' rate). WCR noted that if charges on light locomotives were to be levied in CP5, it would welcome the introduction of a new rate for 'steam loco + support coach' movements.

WCR also stated that it required evidence to support the assertion that steam locomotives cause more 'wear and tear' and thus are more expensive from a VUC perspective than a Class 67 diesel locomotive, for example. It noted that unlike some freight and passenger vehicles no steam locomotive has yet been rejected by a Network Rail Wheelchex facility. DRS empathised with this view.

FGW supported our proposals regarding the structure of charges for charter operators in CP5.

Network Rail conclusion

Following careful consideration of consultation responses we propose confirming the following proposals in our consultation document:

- continuing to levy the VUC on charter operators on a 'per train' basis rather than a 'per vehicle' basis;
- that an average charter train is comprised of a locomotive plus 11 Mark 1 coaches;
- the charge rate for a steam locomotive should be consistent with the average of the published rates for a Class 98/5 and Class 98/8 steam locomotive, with a 2:1 weighting in favour of the Class 98/8, reflecting frequency of use; and
- the non-steam locomotive rate should be charged at the average of Class 47 and Class 67 locomotive rates with a 2:1 weighting in favour of the Class 67, reflecting frequency of use.

We have, however, refined the vehicle characteristics for the Class 98/5 and 98/8 steam locomotives in light of the comments received from DBS. We are grateful that DBS brought this issue to our attention. Based on information from Total Operations Processing System (TOPS) we propose the following refinements:

- **Class 98/5 locomotive**: Increasing the number of axles from 4 to 6, resulting in an axle load of approximately 20 tonnes, which we consider to be more appropriate; and
- **Class 98/8 locomotive**: Increasing the vehicle weight from 142 tonnes to 150 tonnes and increasing the number of axles from 4 to 7, resulting in an axle load of approximately 21 tonnes, which we consider to be more appropriate.

These amendments are slightly different to those proposed by DBS but based on our analysis of the vehicle characteristic information contained in TOPS, and our own engineering judgement, we consider them to be more cost reflective. We also note that our proposals result in a lower axle load, and thus lower VUC, than would result from adopting the amendments proposed by DBS.

In addition to the, above, refinements to vehicle characteristics, in its Draft Determination ORR concluded that a revised methodology should be used to allocate the VUC to individual vehicles in CP5. This methodology was developed by our consultants, Serco, and indicates that heavier vehicles cause more 'wear and tear' than we previously thought and faster vehicles cause less 'wear and tear' than we previously thought[6]. In its Draft Determination ORR also applied a larger efficiency overlay to VUC rates than we included in our consultation document[7].

The combined effect of refining the vehicle characteristics for the Class 98/5 and 98/8 steam locomotives and implementing ORR's Draft Determination is a reduction in VUC rate for the notional 'average' steam charter train set, relative to the rate included in our consultation document. Implementing ORR's Draft Determination also reduces the notional 'average' non-steam VUC rate, relative to that included in our consultation. Overall, the proposed CP5 rates are considerably lower than is currently the case in CP4.

The Table 1, below, shows the updated charge rates alongside those set out in our consultation and the existing CP4 rates:

Table 1: Charter 'per train' VUC rates (2012/13 prices end CP5 efficiency)

Description of Service	VUC (£ / train mile) CP4 2012/13	VUC (£ / train mile) NR May 2013 consultation	VUC (£ / train mile) NR July 2013 conclusions
Loaded train or ECS train hauled by diesel or electric equipment or consisting of EMU or DMU	1.21	1.20[8]	1.05[9]
Loaded train or ECS Train hauled by steam driven equipment	1.45	1.52[10]	1.05[11]

As discussed above, these 'per train' rates are predicated on rates for individual vehicles which will be published on the CP5 VUC price. The rates for the individual vehicles relevant to charter operators are shown in Table 2, below.

[6] The Serco report is available at: http://www.networkrail.co.uk/serco-final-report.pdf
[7] In our VUC conclusions document we proposed applying a 15% efficiency overlay to our pre-efficient numbers. In its Draft Determination ORR proposed reducing our pre-efficient numbers by 4.4% and then applying an efficiency overlay of 19.1%.
[8] £1.20 = ((59.76 * 33.3%) + (65.35 * 66.6%) + (5.18 * 11)) / 100
[9] £1.05 = ((55.78 * 33.3%) + (55.36 * 66.6%) + (4.50 * 11)) / 100
[10] £1.52 = ((105.49 * 66.6%) + (75.22 * 33.3%) + (5.18 * 11)) / 100
[11] £1.05 = ((58.61 * 66.6%) + (50.69 * 33.3%) + (4.50* 11)) / 100

Table 2: VUC rates relevant to charter operators (2012/13 prices end CP5 efficiency)

Vehicle	VUC (pence / vehicle mile) CP4 2012/13	VUC (pence / vehicle mile) NR May 2013 consultation	VUC (pence / vehicle mile) NR July 2013 conclusions
47/4	51.58	59.76	55.78
67/0	48.29	65.35	55.36
98/8	51.58	105.49	58.61
98/5	51.58	75.22	50.69
1	5.99	5.18	4.50

We propose that in CP5 the rates for steam and non-steam notional average charter train sets are refined consistent with the updated rates set out in Table 1, above. We believe that these rates will be more cost reflective than those currently applied in CP4 whilst retaining the pragmatic approach of charging 'per train'. Please note that these updated rates could be refined following ORR's Final Determination, expected in October 2013.

With respect to light locomotive movements we continue to consider that it is appropriate to levy a VUC on these movements because they impose a 'wear and tear' cost on the network. However, in light of consultation responses, and discussions at the focused stakeholder session hosted by ORR, we propose refining the assumptions set out in our consultation document. In particular, we propose updating the light locomotive rate for steam driven equipment such that it includes a support coach. We now understand that a support coach will typically accompany a steam locomotive as part of a light locomotive movement and thus this refinement will serve to make the rate more cost reflective. We also believe that this approach will be more cost reflective than existing arrangements where steam light locomotive movements comprising solely of a locomotive (which we consider are negligible) are exempt from the VUC and light locomotive movements comprising a locomotive and support coach (which we consider are much more frequent) are charged at the full 'per train' rate set out, above.

We do not consider that it is appropriate to update the light locomotive rate for diesel or electric equipment to include a support coach because we believe that these vehicle movements tend to be locomotive only.

Set out in Table 3, below, is the updated light locomotive rates that we propose levying on charter operators in CP5. In addition, reflecting the fact that steams light locomotive movements typically include a support coach, the rates below also take account of the updated vehicle characteristic data and ORR's Draft Determination in relation to the VUC.

Table 3: Proposed CP5 light locomotive charge rates (2012/13 prices end CP5 efficiency)

Description of Service	VUC (£ / train mile) NR May 2013 consultation	VUC (£ / train mile) NR July 2013 conclusions
Diesel or electric equipment	0.63[12]	0.56[13]
Steam driven equipment	0.95[14]	0.60[15]

[12] £0.63 = ((59.76 * 33.3%) + (65.35 * 66.6%)) / 100
[13] £0.56 = ((55.78 * 33.3%) + (55.36 * 66.6%)) / 100
[14] £0.95 = ((105.49 * 66.6%) + (75.22 * 33.3%)) / 100
[15] £0.60 = ((58.61 * 66.6%) + (50.69 * 33.3%) + 4.50) / 100

As set out in our VUC conclusions document we consider that the methodology developed by Serco for allocating the VUC to individual vehicles is robust and represents a step-change improvement in our understanding of the drivers of track 'wear and tear'.

In response to the point raised by WCR, Wheelchex is a system for measuring excessive dynamic wheel load impacts. They are fitted at numerous places around the network and detect if wheels are imparting very severe loads onto the network. These loads are usually due to vehicle defects such as damaged suspension components or 'flats' on wheels, and allows such vehicles to be identified and removed from service promptly. Track geometry degradation and 'wear and tear' to the network occurs at loads lower than those which activate a Wheelchex alarm so it is therefore not possible to use Wheelchex to demonstrate the 'track friendliness' of a vehicle. We do not consider that because steam locomotives are not triggering Wheelchex activations that it demonstrates that these vehicles are more 'track friendly' than other freight and passenger vehicles. The VUC is underpinned by vehicle characteristics such as vehicle weight, speed and un-sprung mass that are widely accepted as being the key drivers of track 'wear and tear'. We note, however, that the combined effect of refining the vehicle characteristics and implementing ORR's Draft Determination in relation to the VUC is a significant reduction in VUC rates for steam locomotives, relative to those proposed in our consultation document.

Traction Electricity Charge (EC4T charge)

Summary of proposal in our consultation

In our consultation we proposed to charge charter operators for their use of EC4T (historically it had been deemed to be administratively inefficient to put in place a robust process). We are also keen for charter operators' EC4T arrangements to be brought in line with the way in which other electric operators are charged for their use of EC4T. Therefore, we proposed to more rigorously bill charter operators for their use of EC4T in CP5. Consistent with this, we proposed that all charter trains' modelled consumption is included in the year-end volume wash-up.

Furthermore, we proposed that charter operators should be charged based on actual unit electricity prices paid by Network Rail, consistent with those paid by passenger operators. We also proposed that they are included in the year-end cost wash-up.

Summary of consultation responses

DBS noted our proposal to levy a traction electricity charge on electrically hauled charter passenger trains in CP5, based on actual unit electricity prices paid by Network Rail, and include charter operators in the year-end traction electricity cost and volume wash-ups.

DBS proposed that instead of charter operators calculating their own modelled consumption rates, it would be more appropriate for Network Rail to propose modelled consumption rates for consultation and agreement with charter operators. It stated that this would avoid the possibility of two separate charter passenger operators calculating different consumption rates for the same vehicle type.

DRS queried the level of administration costs associated with levying the EC4T charge on charter operators in CP5 and whether this is proportionate to the revenue that would be recovered.

FGW supported our proposals regarding the structure of charges for charter operators in CP5.

Network Rail conclusion

Following careful consideration of consultation responses, we propose that charter operators should be charged for their use of EC4T consistent with other electric train operators, subject to the billing system being able to process this. We note that the current charter model TAA does allow for the recovery of EC4T charges but through a different methodology. If the billing issues are too complex to resolve it might be appropriate to use a simple, transparent approximation. It is, however, right that users of traction power pay for that usage. This forms our final proposal to ORR.

We note DBS's point about calculating consistent modelled consumption rates, however we are proposing that all operators calculate rates consistent with the agreed methodology (see Annex B). In the past, most operators have commissioned Atkins Global to calculate their modelled consumption rate. We consider that if all operators use this agreed methodology it would reduce any issues around potential discrimination and would ensure a consistent approach is taken across all train operators.

Where a consumption rate has not been calculated, a default consumption rate[16] can be used. In the past, where a rate has not been calculated using the agreed methodology, we have agreed with the relevant train operator, to use an existing rate which represents a similar vehicle type and service pattern. This arrangement has, in the past, applied for a temporary period only. It may be that a similar arrangement could be agreed for charter operators if they do not have a consumption rate calculated in time for the start of CP5.

Electrification Asset Usage (EAU) Charge

Summary of proposal in our consultation

In our consultation we proposed a more rigorous approach to charging charter operators for their EAU charges (historically it had been deemed to be administratively inefficient to put in place a robust process). We proposed calculating new rates for CP5 but rolling-forward the existing contractual arrangements as the structure of charge itself was unlikely to change.

Summary of consultation responses

DBS acknowledged our proposal to levy the EAU charge on electrically-hauled charter passenger trains in CP5. However, it did not make any further comments in relation to this issue.

[16] See draft consumption rates published consistent with ORR's draft determination, available here: http://www.networkrail.co.uk/TractionElectricityConsumptionRatesOtherEC4T.xls

DRS queried the level of administration costs associated with levying the EAU charge on charter operators in CP5 and whether this is proportionate to the revenue that would be recovered.

FGW supported our proposals regarding the structure of charges for charter operators in CP5.

Network Rail conclusion

Following the careful consideration of consultation responses, we propose confirming the proposal set out in our consultation document to introduce a more rigorous approach to charging charter operators for their EAU charges in CP5. We propose that consistent with ORR's Draft Determination and charges for other passenger operators, the following EAU charge rates should apply to charter operators in CP5:

Table 4: Proposed CP5 EAUC rates (2012/13 prices end CP5 efficiency)

2012/13 prices	PASSENGER	
	DC (third rail) pence per electrified vehicle mile	AC (OLE) pence per electrified vehicle mile
CP5 (ORR DD June 2013)	0.72	1.62

Please note that the, above, charge rates could be refined as part of ORR's Final Determination.

Slot and Cancellation Charges

Summary of proposal in our consultation

In our consultation letter we proposed retaining the existing Slot and Cancellation Charge rates in CP5, adjusted annually for RPI.

Summary of consultation responses

DBS was content with our proposal to continue the current CP4 Slot and Cancellation Charge rates, subject to an RPI uplift, for CP5 and, therefore, did not have any further comments on this issue.

DRS noted that we had proposed retaining current rates, adjusted by RPI, for CP5 and made no further comment on this proposal.

FGW supported our proposals regarding the structure of charges for charter operators in CP5.

Network Rail conclusion

Following careful consideration of consultation responses, we believe that consistent with the proposal set out in our consultation document, it is appropriate to retain the current Slot and Cancellation Charges for CP5, adjusted annually for RPI. We consider that the level of

charges continues to be broadly cost reflective and allows us to recover costs associated with activities that we undertake specifically for charter services (e.g. gauging activities) but are not otherwise funded for.

Tables 5 and 6, below, set out our proposed 'per journey' CP5 Slot Charge rates:

Table 5: Proposed CP5 charter 'One off' slot charge rates (2012/13 prices)

Description of Service	Total journey length including ECS mileage not exceeding 250 miles (£)	Total journey length including ECS mileage exceeding 250 miles (£)
Train hauled by Diesel or Electric Equipment or consisting of EMU or DMU	309	309
Train hauled throughout or in part by Steam Driven Equipment	552	773

Table 6: Proposed CP5 charter repeat slot charge rate (2012/13 prices)

Repeat Business Slot Charge (£)
55

Please see below a summary of our proposed CP5 Cancellation Charge rates:

- **10%** of the Slot Charge for the Cancelled Service where notice of such cancellation is given more than 25 Working Days in advance of the Planned date of operation of the Cancelled Service;
- **50%** of the Slot Charge for the Cancelled Service where notice of such cancellation is given at least 20 but less than 26 Working Days in advance of the Planned date of the Cancelled Service;
- **75%** of the Slot Charge for the Cancelled Service where notice of such cancellation is given at least 15 but less than 20 Working Days in advance of the Planned date of the Cancelled Service;
- **85%** of the Slot Charge for the Cancelled Service where notice of such cancellation is given at least 5 but less than 15 Working Days in advance of the Planned date of the Cancelled Service; and
- **100%** of the Slot Charge in all other cases.

Capacity Charge

Summary of proposal in our consultation

In our consultation we did not propose levying the Capacity Charge on charter operators in CP5. However, we recognised that there may be a case for charging the Capacity Charge on charter operators in future, to reflect their impact on capacity utilisation and the financial risk which this places on Network Rail in terms of additional Schedule 8 payments.

Summary of consultation responses

DBS stated that if it is decided that a Capacity Charge for charter passenger operators is appropriate in CP5, it 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[17] (i.e. the Capacity Charge is only levied on activity above a pre-determined benchmark). Furthermore, DBS stated that it 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.

Whilst recognising that there is an emerging problem of congestion on the network, WCR did not consider that a Capacity Charge would benefit charter trains in anyway. It stated that given the relatively small number of charter trains and their actual impact, together with the revenue that any charge would raise, it sees no benefit or justification for introducing a Capacity Charge for charter operators in CP5 and to do so is to misunderstand the whole concept of charter trains.

DRS proposed that any Capacity Charge for charter operators should be deferred until CP6. It considered that this would provide sufficient time for the alternative Capacity Charge proposal put forward by freight operators to be completed.

FGW supported our proposals regarding the structure of charges for charter operators in CP5.

Network Rail conclusion

Whilst we do not propose introducing a Capacity Charge for charter operators in CP5, we continue to believe that charter operations impose additional Schedule 8 costs on Network Rail. We understand that ORR is considering whether to impose a Capacity Charge on charter operators, and we are assisting it in this work.

We note that, in its draft determination, ORR raised the possibility of changing the current approach to the Capacity Charge by 'fracturing' its alignment with Schedule 8. Whilst Network Rail is content to work with ORR to calculate a Capacity Charge rate for charter operators that is consistent with its Draft Determination, we do not agree with ORR's proposed change to the Capacity Charge regime. We believe that this approach would discourage traffic growth on the network, and in some areas will impose financial incentives on Network Rail to **reduce** traffic levels. We are concerned that the proposals risk introducing undue discrimination into the charging regime, since the proposal would fragment the link between costs incurred and charges and lead to very different incentives for traffic growth across the network. We are currently discussing with the industry how this issue can be appropriately addressed for CP5.

[17] This is also known as the 'RFOA proposal', available at: http://www.rail-reg.gov.uk/pr13/PDF/freight-capacity-charge-2013-04-24.pdf.

We understand that the main motivation for 'fracturing' the Schedule 8 regime and the Capacity Charge is the substantial increase in Schedule 8 payment rates that have been proposed by ORR, which under the current regime would lead to commensurate increases in Capacity Charges. We believe that the evidence base contradicts the proposed increases in Schedule 8 rates for a number of market segments. For other market segments, it is unclear whether the evidence base is sufficiently robust to introduce the scale of the increases being proposed, given the resulting financial risks and possible perverse incentives. We note that funders have expressed similar concerns around ORR's proposals to increase Schedule 8 payment rates, as have some freight operators and a minority of TOCs. We are continuing to hold discussions with the industry to ensure that Schedule 8, Schedule 4, the Capacity Charge and the Volume Incentive work together to provide the appropriate balance of risk and reward, and encourage Network Rail to efficiently manage performance and traffic growth.

To reiterate, regardless of what ORR ultimately decides in relation to the level of Schedule 8 rates in CP5, we consider it vital that Schedule 8 and Capacity Charge rates are set on a consistent basis.

Schedule 8

Summary of proposal in our consultation

In our consultation we noted that we had started work to calculate a new charter operator payment rate and would share the results of this work in the near future. We also noted that, at present, charter operators' liability for any incident is capped at £5,524 (2012/13 prices), with Network Rail liable for anything in excess of this. We stated that if incident caps are to be offered in CP5, we believe that it is important for the integrity of the Schedule 8 mechanism and the regulatory regime in its entirety, that such caps are appropriately funded. We noted that this funding could come from an Access Charge Supplement (ACS) levied on charter operators themselves, or through an increased revenue requirement.

Summary of consultation responses

DBS supported our proposal to calculate a separate charter operator payment rate, provided it uses the same methodology used to calculate the freight operator payment rate, adjusted such that it reflects delays caused by charter passenger services. However, DBS does not agree with our proposal to leave intact the other terms of the charter passenger performance regime. It considered that 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. It proposed that 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. It also noted that ORR is disposed toward adopting this approach, as well as retaining the concept of a 'free' incident cap, which DBS supports.

WCR also supported the retention of an incident cap. However, it strongly opposed increasing charter operator payment rates without increasing the Network Rail payment rate. It also noted that the introduction of benchmarking may be beneficial, although it would like to see more comprehensive modelling to demonstrate this. In addition, WCR expressed

concerns regarding the performance regime more generally, stating that the whole concept is due a full review, and that the true cost of administering it requires careful scrutiny.

DRS supported setting a charter operator benchmark and retaining the incident cap. However, it requested further clarification on how the updated cap compares to the existing one in both financial and delay minute terms.

FGW supported our proposals regarding the structure of charges for charter operators in CP5.

Network Rail conclusion

We believe that it is important that the integrity of the star model is upheld. Given that ORR is proposing significant increases in Network Rail Schedule 8 payment rates in relation to passenger operators in CP5, a commensurate increase in the charter payment rate will be necessary to uphold the star model. We would emphasise that we have used an updated and improved methodology to calculate the provisional charter payment rate of £69.31 (2012/13 prices end CP5 efficiency) for CP5. Please note that this rate is likely to change as a result of ORR's Final Determination.

It is essential that the regime is financially neutral on expectation for Network Rail, and that provision of incident caps is appropriately funded. We recognise that there are a number of ways in which this can be achieved, for example by levying an ACS on operators, setting benchmarks appropriately and/or by means of a higher revenue requirement.

Schedule 4

Summary of proposal in our consultation

In our consultation we proposed that the Schedule 4 regime should not be changed to incorporate charter operators in CP5. We stated that if a Schedule 4 regime were to be introduced for charter operators, it would be appropriate for any arrangements to be funded, for example by means of an ACS payable by charter operators.

Summary of consultation responses

DBS and DRS supported our proposal that the Schedule 4 regime should not be extended to include charter passenger services.

FGW supported our proposals regarding the structure of charges for charter operators in CP5.

Network Rail conclusion

Following careful consideration of consultation responses, we propose confirming the proposal set out in our consultation document that the Schedule 4 regime should not be changed to incorporate charter operators in CP5. We continue to consider that because engineering possession plans are typically agreed before the majority of charter services are planned and offered, a Schedule 4 regime for charter operators is not required.

If, however, a Schedule 4 regime were to be introduced for charter operators, we believe that it would be appropriate for any arrangements to be funded, for example, by means of an ACS payable by charter operators.

Station Charges

Summary of proposal in our consultation

In our consultation we noted that charges for charter operators currently accessing any one of our 17 Managed Stations do not form part of their TAAs. However, for completeness we thought that it would be helpful to outline the current arrangements and Network Rail's position on station charging in CP5.

We proposed retaining the current arrangements in CP5. Under these arrangements a fixed fee of £50 and £65 for a single and return visit respectively is applied to recover the cost of the services used by the charter train operator at the relevant Managed Station. This fee is negotiated between the charter operator and relevant station manager.

Summary of consultation responses

DBS suggested that in order to improve transparency and demonstrate consistency of treatment between charter passenger operators, we should publish a tariff of standard charges for commonly requested services offered at our managed stations (e.g. access fee, tanking, rubbish removal etc). However, it acknowledged that fees for less commonly asked for services would still need to be negotiated on a case-by-case basis. DBS also considered that the level of the standard charge should be reviewed to ensure it is consistent with that being charged across other large stations on the network. In DBS's experience Network Rail charge rates are "*typically double those charged by other Station Facility Owners (SFOs)*".

DRS considered that station charge should be regulated.

FGW supported our proposals regarding the structure of charges for charter operators in CP5.

Network Rail conclusion

Following careful consideration of the consultation responses received on charter operators' station charges for CP5, we propose confirming the proposal in our consultation to continue with the current charging arrangements at managed stations. We do, however, see merit in further considering DBS's suggestion to publish a tariff of standard charter operator charges for commonly requested services during CP5 and agree that this would aid transparency. We propose discussing this further with operators during CP5.

In relation to DBS's point regarding consistency between the charges at Network Rail managed stations and other large stations on the network, we would encourage operators to raise this during the negotiation process and request further details regarding the fixed fee where they have concerns regarding its level.

We note DRS's view that charter operators' station charges should be regulated. While this is ultimately a matter for ORR, we would highlight that this would be inconsistent with the

unregulated treatment of Qualifying Expenditure (which is charged to all other beneficiaries of managed stations and seeks to recover the services provided at these facilities). In addition, each charter operator will have an independent station access contract in place with Network Rail which is regulated by ORR[18].

Other issues raised by stakeholders

Summary of consultation responses

DBS considered 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. It noted that this would enable those agreements to be replaced by new track access agreements which would then apply from the start of CP5, incorporating the revised charging structure. It believed that this would avoid having to retrofit the revised structure of charges into current TAAs for a few months until they expire in August 2014.

WCR considered that the consultation attempts to achieve unrealistic parity between charter operators and much larger operators and did not sufficiently acknowledge charter-specific factors. It also noted that charter operators are "*unsubsidised, private enterprise, open-access operations*" that contribute c. £1m to Network Rail's annual revenue requirement, whilst generating public good will and wider economic benefits (e.g. tourism). It expressed concern that if the proposals were fully implemented this could force many market participants out of business.

Network Rail conclusion

We consider that there is merit in the proposal from DBS to terminate charter operator TAAs early, on 31 March 2014, to coincide with the start of CP5. We agree that this approach has the potential to avoid unnecessary administration and having to retrofit the revised structure of charges into current TAAs for a few months until they expire in August 2014. We propose working with charter operators and ORR to explore this option in more detail. We also note that before TAAs can be terminated it will be necessary to negotiate and agree the terms of the new agreements that will replace them and that this will need to be done in a timely manner.

When developing the structure of charges for all operators (passenger charter, passenger and freight) in CP5 we have to be mindful of the fact that the charging structure should not unduly discriminate between operators. A consequence of this requirement is that, generally, we apply the same methodology when calculating track access charges for all operators in order to try and ensure a 'level playing field'. In our charter consultation, however, where we considered it reasonable and proportionate to do so, we sought to reflect the bespoke nature of charter operators in our charging proposals. For example, we proposed retaining the existing approach to levying the VUC on charter operators on a 'per train' basis, rather than on a 'per vehicle basis' like other operators. In addition, contrary to the arrangements for other operators, we also proposed not introducing Schedule 4 provisions for charter

[18] The independent station access contract contains provisions relating to access charges including that in the event that Network Rail and the operator are unable to agree on an appropriate charge, the matter can be referred to an arbitrator for determination.

operators to reflect the fact that engineering possession plans are typically agreed before the majority of charter services are planned and offered.

We recognise the fact that track access charges represent a non-trivial cost to charter operators and that the charter industry generates wider economic benefits. However, we believe that it is important for the long-term sustainability of the industry that track access charges for charter operators at least recover the marginal cost of usage. We note, however, that ultimately ORR is responsible for determining the level of track access charges in CP5, including charter track access charges, and that in making its decision it will have to balance its statutory duties.

Next steps

The conclusions set out in this letter form our proposals to ORR in relation to the structure of charges for charter operators in CP5. ORR is due to publish its Final Determination in October 2013, which will include decisions on access charges, including those payable by charter operators.

Following this process, the new CP5 charge rates, determined by ORR, are due to be implemented on 1 April 2014.

Yours sincerely

Ben Worley

Senior Regulatory Economist

Annex A – circulation list

Association of Train Operating Companies

DB Schenker UK Ltd

Direct Rail Services Ltd

First Greater Western Ltd

Freightliner

GB Railfreight Ltd

Office of Rail Regulation

West Coast Railway Company Ltd

A1 Steam Locomotive Trust

Compass Tours

Green Express

Great Western Society & FGW

National Railway Museum

Nenta Tours

NE Railtours

Pathfinder Tours

PMR Tours

RailTourer

Railway Touring Company

Rivera Trains

Royal Scotsman

SRPS

Steam Dreams

Statesman Rail

Torbay Express Limited

UK RailTours

Vintage Trains

VSOE - Northern Belle

VSOE - British Pullman

Annex B - New modelled EC4T consumption rates during CP5

During CP4, new EC4T consumption rates were calculated using a methodology which was agreed by the industry for use shortly after the conclusion of PR08[19]. We proposed that this methodology is rolled forward for new vehicles for use in CP5.

The agreed methodology was developed to produce rates for new rolling stock coming onto the network during CP4. It was considered important that this methodology was broadly consistent with the TRATIM-based approach, which existing modelled rates are based on. This was considered a temporary solution given ongoing work to introduce on-train metering across the entire electric fleet during CP4 and CP5. The main principles underpinning the methodology are set out below.

TRATIM approach

It is not possible to identify all of the assumptions that underpinned the original TRATIM modelling as the relevant information is not available. However, in general, the approach taken was to model 'representative' journeys and stopping patterns which were then used to generate rates (kWh per train mile) for each combination of train service code and train consist. The rates derived also include an element for auxiliary energy consumption and energy consumed during station dwell and terminal layovers. Distribution losses and energy consumed during stabling were not included and have historically been dealt with through the wash up. Similarly, energy reductions from regenerative braking were not included in the TRATIM approach, instead of being dealt with by way of agreed standard discounts to gross consumption.

New methodology

The methodology we proposed for new or re-routed stock is therefore an attempt to mirror the TRATIM approach as closely as possible, as requested by ORR, while avoiding some of the main problems identified in our original EC4T consultation for the 2008 periodic review. The key steps are set out in the table, below.

Steps to calculate a new modelled consumption rate

Step	Action
1.	A service pattern is selected as 'representative' of the service code for which a new consumption rate is required. The service pattern is selected on the basis of it being the most frequent i.e. containing the most trains[20].
2.	The selected service pattern is modelled in Railsys[21] to derive mechanical energy at the wheels. This is derived using the following assumptions: • Trains modelled are based on the timetable period during which they are running; • Maximum braking rate of 1m/s^2;[22] • Trains are run flat out and weighting factors of 5% and 8% energy reduction are applied to AC and DC traction respectively to reduce the line energy consumption. (This is to take into account the effects of operational and engineering allowances etc.)[23]

[19] This methodology was agreed in May 2009.

[20] Where there is more than one service pattern in a service code with the same number of trains, an average of the most frequent service patterns is taken.

Step	Action
3.	The mechanical energy is converted into electrical energy. In doing so, the auxiliary load while in traffic is calculated and added[24].
4.	To reflect energy consumed during station dwell time and terminal layovers the final numbers are uplifted by 10%[25].

Distribution losses for both AC and DC operation are not included in the rates calculated. This is consistent with the existing TRATIM methodology. Transmission losses are, effectively, dealt with in the annual year-end volume wash-up. Similarly the impact of regenerative braking is not included. However, a discount is offered to those operators which use regenerative braking.

From this process a consumption rate (kWh per train mile for multiple unit operation, kWh/gross tonne-mile for loco-hauled operation) can be derived for the following level of detail:

- Train operating company;
- train service code; and
- rolling stock type.

In addition, consistent with the TRATIM methodology, modelled rates can be derived for coupled multiple units (e.g. where two 4-car EMUs are operated together) by multiplying the single EMU rate by existing uplift factors[26].

Comparison with TRATIM

While a comparison between the new rates and TRATIM rates should not be used as a test of accuracy, it is useful as a means of demonstrating consistency between the two approaches. As such, a validation exercise was undertaken to compare the rates derived for selected types of rolling stock/route against the existing TRATIM rates. This validation exercise illustrated that, in most cases, the rates derived using the new methodology were within 5-6% of comparable TRATIM rates. It is, therefore, considered that the new rates are as consistent as reasonably possible with those derived using the original TRATIM approach.

We consider that it is suitable to continue using this methodology to calculate modelled consumption rates for new vehicles introduced during CP5. We would expect for most new

[21] This is a performance modelling tool.

[22] A braking rate of 1 m/s2 is identified as appropriate as this value is commonly used as a standard maximum for new rolling stock types derived from Railway Group Standards. (It is understood this is slightly lower than some of the braking rates that were applied in TRATIM however it is regarded as being more representative of the likely maximum braking that would be applied in real-world operating conditions)

[23] This is consistent with the original approach followed under TRATIM

[24] Data on the electrical characteristics of individual trains is taken from OSLO

[25] Note: TRATIM numbers were uplifted to take account of this consumption however there is no specific value identified in the assumptions. The 10% estimate is based on best available advice from Network Rail.

[26] Uplift factors are 192% for 2x1MU, 285% for 3x1MU and 380% for 4x1MU.

stock introduced during CP5 to be fitted with on-train meters, and therefore opt for metered billing. For this reason, we would expect the use of this methodology to diminish over time.