

Steven McMahon, Head of Rail Strategy
Rail

Buchanan House, 58 Port Dundas Road, Glasgow G4 0HF
Direct Line: 0141 272 7432
Steven.McMahon@transportscotland.gsi.gov.uk



Joel Strange
Senior Regulatory Economist
Network Rail
Kings Place
90 York Way
London
N1 9AG

Date:
06 September 2012

By e-mail

Dear Joel

Periodic Review 2013 – Network Rail consultation on the capacity charge

Thank you for the opportunity to respond to this consultation on the capacity charge. We note that the ORR has asked Network Rail to revisit and recalibrate the charge for CP5.

The Scottish Ministers have made substantial investment in the rail network in Scotland, both improving the capacity and capability of the network and supporting significant growth in passenger demand and rail freight traffic. Performance levels have also improved considerably over the past ten years while capacity utilisation has increased.

The Scottish network is funded entirely by the Scottish Ministers. The recent publication of the Scottish Ministers High Level Output Specification (HLOS) for Control Period 5 makes clear that we are determined to build on this success with continued investment in new and better rail services with improved performance levels. The economic, social and environmental case for these HLOS investments is predicated on the ability to secure the track access rights required to run the relevant franchised services. Protecting these investments must therefore be central in the ORR and Network Rail's considerations around the right frameworks for allocating and charging for track access rights. It is also critical that those frameworks are able to operate in harmony to achieve the best outcome in terms of accommodating new and existing traffic on the Scottish network.

As reflected in Transport Scotland's responses to the various ORR PR13 consultations to date, the Scottish Ministers expect the determination of the regulatory framework for CP5 to help support a more integrated approach to managing the delivery of railway services, help lower costs and provide better value for money. That is why we continue to have concerns about the effectiveness of the incentive properties of Schedule 8, where in effect Network Rail are at worst held cost neutral for poor performance. We will continue to pursue this with the ORR as part of their PR13 considerations.

The consultation document suggests "mounting anecdotal evidence" that the capacity charge is no longer fulfilling its objectives as well as it could be. The lack of any specific evidence does not

provide for a strong rationale for change. However, given the charge has not been updated since its inception we accept the need for review.

Your consultation document states that it is not possible to estimate changes in tariffs prior to recalibration but that they will “typically increase” in CP5 due to increases in passenger revenue and average capacity utilisation. However, there is an expectation that the efficient use of capacity will increase in CP5 which along with other improvements in efficient practices should, other things being equal, reduce the level of Schedule 8 payments required. While we have still to finalise the terms of the next ScotRail and Caledonian Sleepers franchises, due to come into effect in 2014, we would expect to see an assumption for increased efficient practices reflected in the recalibration.

In considering potential changes to the charging regime Transport Scotland would also expect due consideration to be paid to the characteristics of the rail network in Scotland, specifically that it is a relatively self-contained network with one dominant TOC. The highly specified existing ScotRail franchise is also driven by social as well as economic imperatives. The impact on other passenger service operators and freight operators should also be appropriately recognised given the Scottish Ministers’ wider policy objectives.

Transport Scotland is also of the view that introducing additional complexity into the charging regimes should be avoided unless strong supporting evidence exists. Whilst supporting the principle of increased transparency and stronger price signals to operators and funders, charging is only one way of ensuring the efficient use of network capacity.

I am copying this letter to Paul McMahon and Emily Bulman at the ORR. I am also happy for this response to be made public.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Steven McMahon', written in a cursive style.

STEVEN MCMAHON