# WEST COAST RAILWAY COMPANY LTD

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## RESPONSE TO NETWORK RAIL'S CONSULTATION ON THE STRUCTURE OF CHARGES FOR OPERATORS IN CP5

Since privatisation of the railways, the role of charters and the benefits, direct and indirect, which they provide to the wider industry and economy, has always been acknowledged, and indeed is shortly to be the subject of a 'Report on the Value of Heritage Rail', from the All-Party Parliamentary Group on Heritage Rail. West Coast Railway Company (WCR) has been a licenced Train Operator since 1998 and is the predominant operator of these services.

**Background**
The general tone and content of the consultation is one of attempting an unrealistic parity of companies, such as WCR, with other often much larger operators; the approach appears to be a theoretic and economic one, which really gives little acknowledgement to the specific factors which affect this small area of the rail market. Charters are totally unsubsidised, private enterprise, open-access operations; they are often one-off, bespoke services, provided for optional customers. They contribute just over £1m to Network Rail's revenue, whilst at the same time generating public good will on a much greater scale than their economic value would suggest. It is also worth noting that a not insignificant but incalculable revenue is also generated by associated journeys with mainstream operators.

The relative disparity in size, between charter operators and other mainstream sectors of the rail industry, requires protection from:

- Mis-match in business sizes
- Unfair application of delay due to errors both human and systemic together with occasional misrepresentation
- NR remains banker/underwriter – NR, as an organisation principally funded from public subsidy is also the railway's holder of debt.

There are also wider economic benefits, from charter activities:

- Tourism – there are many destinations and communities, large and small, who now rely on charter trains for their income, eg. Carlisle, Fort William and Mallaig. The temporary suspension of 'The Cambrian' steam service, between Machynlleth and Pwllheli, on the Cambrian Coast, has amply demonstrated the negative effect on the local economy, after only a couple of seasons' build-up.
- Loss of 'unseen' ancillary activities not provided by other companies (such as route clearance, snow-ploughing, on-track machine conducting), which, in turn, are unlikely to be taken up by other businesses, so creating further performance losses to Network Rail and the wider industry (and certainly substantially greater than the shortfall figures mentioned).

Of the specific areas of consultation, where we feel the need to respond, we comment as follows:

**Variable Usage Charge**
We broadly accept the structure of the proposed VUC. Although we are pleased to note that the ORR's final determination may see these proposed figures reduce, we still require sight of evidence and criteria to support the assertion that steam should be 50% more expensive than other traction, particularly as we have difficulty conceiving that a class 98/5 steam loco travelling at a permitted speed of 60mph is 50% more damaging to the infrastructure than a class 67 diesel running at 100mph. It is a matter of record that no steam locomotive has yet been rejected by a Network Rail Wheelchex facility – something that cannot be said for the numerous freight and indeed passenger vehicles, which are regularly rejected by Wheelchex, so we must ask how this claimed additional wear and tear to the Network is occurring if steam locomotives meet the limits required by Wheelchex?

Incidentally, the subsequent note, referring to a Class 98/5 or 98/8 is actually quite meaningless.

We also note that if light loco charges are to be levied, then we would welcome the introduction of a new, intermediate rate for 'steam loco + support coach' moves (as discussed at the ORR's meeting).

**Capacity Charge**
Whilst recognising that there is an emerging problem of congestion on the network, we do not see how a capacity charge will benefit charter trains in any way. Charter trains, by their nature, 'follow the crowd', as they run to popular 'honey-pot' destinations. If for example, the capacity charge suggested that a visit to Carlisle in the middle of the night was economically more preferable, then that is clearly nonsense. Given the relatively small number of charters and their actual impact, together with the proposed cash generation that it is proposed to raise, we see no benefit or justification whatsoever for its introduction and its proposal is to misunderstand the whole concept of charter trains. It does seem to us to be just another mechanism for squeezing further cash from the charter business.

**Performance**
We welcome the retention of the performance cap and recognition that the proposal for external insurance protection was a most unrealistic non-starter. We are, however, dismayed, although not altogether surprised, at the effective doubling of performance penalty rates, whilst retaining a reduced level of payment in cases where NR is at fault and it is required to repay the operator. We do however feel that the introduction of benchmarking may be beneficial, although we would wish to see more comprehensive modelling to demonstrate the true validity of the proposal before we are fully convinced of its benefit.

Although we note that the principal matter at issue is Schedule 8, we believe it is appropriate to comment on the general principal of financial performance and penalties, as we consider that it is much overdue for a full review of the whole concept. Whilst accepting that, at the time of rail privatisation, performance had a role to play, the time for that is now over, other than perhaps to put a financial value on delay. It would indeed be most interesting if the ORR were to publish a breakdown of the annual tidal flows of payments in and out of all participating organisations in order to demonstrate the net worth of this system.

With a growing policy of ‘joint’ or partnership control of rail operations (such as Alliances), it is often becoming increasingly difficult to identify where the true and honest causes of delay really lie. Such a performance regime is an attempt at perfect regulation on an imperfect system; charter timing/planning, in particular, is an imperfect art, rather than precise science, due mainly to varied and occasional operations being unable to generate valid timing statistics, and consequently the amount of time spent on performance is disproportionate to the benefits or money it raises.

More specifically, the true cost of administering this system needs to be carefully scrutinised. It has been estimated that approximately 500 people in the rail industry are directly employed in the management of performance and that the system costs some £30m per annum. Given that this is nothing more than an internal system, which has no external benefit, it is an unnecessary additional burden on the rail industry and should be scrapped, certainly within the term of future Control Periods, beyond CP5.

**Conclusion**

Our overall view of the consultation is that its objective is to bring charter operations into line with mainstream train operators, who almost inevitably will be subsidised in some form, at the same time as raising further revenue from a benign market (in much the same was as proposed by levying freight operators). This is to misunderstand the charter market, which is entirely dependent on private enterprise, and there is the very real danger that, if fully implemented, this will force many participants out of business. We can see little or no incentive for growth or development.

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