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Periodic Review 2013: First Consultation

2 September 2011

Dear Richard

Thank you for consulting Stagecoach South Western Trains on the above. This response does not address all of the consultation questions but aims to cover those that are important to SSWT.

Incentives

We agree with ORR's view that the financial protections within franchise agreements can mean that any changes made under a periodic review are effectively negated from the perspective of train operators. We believe that it is important that ORR takes this into account when considering the potential benefits of introducing of any new incentive regimes, for example the proposed efficiency benefit sharing mechanism at a route level.

We agree with LEKs view outlined in Annex D that the best option for developing cost and revenue sharing (CARS) between TOCs and Network Rail would be through bespoke deals. For this reason, we believe that TOCs and Network Rail must be able to opt out of any CARS mechanisms incorporated into track access contracts through ORR's PR13 determination if an alliance agreement is in place which, in their view, provides equivalent or superior incentives to reduce costs and increase revenue. The way that we would see this working would be through ORR including in any changes a provision enabling the parties to disapply particular modifications to the track access contract in a specific range of circumstances.

We would not necessarily support turning off the Schedule 4 and 8 regimes for train operations where there is vertical integration or where joint ventures or alliances are in place. A one size-fits-all solution would not be appropriate and any decision on retaining these regimes should be made based on the specific nature and scope of the alliance agreement, which may make it desirable to retain the incentives provided by each regime.

With regard to the Schedule 4 compensation regime, in addition to the key issues identified by ORR for consideration as part of PR13, we would also like ORR to consider how Schedule 4 guides decisions on whether to operate contingency timetables in extreme winter weather events. We believe that Schedule 4 currently creates a perverse incentive on Network Rail to maintain a stance that the network is fully available in order to avoid calling a Restriction of Use, which would incur Schedule 4 compensation payments. Such a decision is often not in the best interests of the passenger and results in a situation where a TOC which decides to run a contingency timetable in order to maintain an operationally robust service for its passengers is not entitled to any compensation from Network Rail due to in effect having 'requested' to run a reduced service which constitutes an Operator Restriction of Use. We are also aware that different Network Rail routes are being inconsistent in the way in which they treat train operators with regard to declaring Restrictions of Use during winter weather. We consider this to be manifestly unfair and would welcome ORR's intervention. We believe that

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establishing a clear set of criteria in Schedule 4, which could be used to determine whether a route is fully available or if Restriction of Use has occurred, would be a beneficial change which could help ensure that decisions on the appropriate service level are made on an operational rather than a financial basis.

Structure of charges

We are pleased that ORR has recognised Network Rail's ability to influence the extent of EC4T transmission losses and therefore support the proposal outlined in Annex F to incentivise Network Rail to reduce EC4T system losses through sharing the volume risk in the EC4T wash up. In order to enable TOCs to benefit from this proposal, which would incentivise meter fitment, ORR must engage with DfT to ensure that it allows operators to benefit from this change in the same way that it has allowed operators to benefit from the investment they have made to modify vehicles in a track-friendly manner beyond the current control period.

In addition to ORR's proposal, we think that Network Rail should also take a share of the volume risk for system losses for metered operators that are not part of the EC4T wash up by reducing the mark up for system losses applied in the DC area to an efficient level of 10-15%. This would provide a strong incentive to SSWT to introduce on-train metering to its fleet.

We would also support the development of an approach that would enable the treatment of all fleet consumption as metered on the basis of metering a sample of vehicles and extrapolating metered consumption to determine charges across the fleet.

ORR must consider the TOC resources required to implement any changes to the charging and compensation regimes for CP5, bearing in mind the franchise agreement TOCs are required to work within. SSWT invested a significant amount of time at a senior level to determine the Schedule 9 Franchise Agreement adjustments following ORR's CP4 determination. The CP4 regime also created significant funding issues for SSWT due to timing differences between grant and Network Rail charge payment.

Yours sincerely

Sam Gibbins
Track Access Manager
For and behalf of Stagecoach South Western Trains Limited