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## **ORR's Draft Determination on the structure of charges and Schedule 8 performance regime for charter operators**

20 September 2013

Dear Alexandra

### **Purpose of this letter**

This letter sets out Network Rail's response to ORR's consultation on its draft conclusions on the structure of charges and Schedule 8 performance regime for charter operators in Control Period 5 (CP5). We thank ORR for the opportunity to respond to this consultation.

We are content for this letter to be published on ORR's website and confirm that no part of this letter is confidential.

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.

The remainder of this letter is structured as follows:

- Introduction;
- Variable Usage Charge (VUC);
- Traction Electricity Charge (EC4T);
- Electrification Asset Usage Charge (EAUC);
- Schedule 4;
- Slot and Cancellation Charges;
- Station charges;
- Schedule 8;
- Capacity Charge; and
- Next steps.



## Introduction

Charter operators are typically one-off operations, rather than regular passenger services. The volume of charter services that run on Network Rail's infrastructure is relatively small, representing approximately 410,000 train miles in 2012/13, from which Network Rail received approximately £1m in income (cash prices).

In May 2013 Network Rail issued a consultation letter in relation to the structure of charges for charter operators in CP5. In response to this consultation, we received four responses. We concluded on this consultation to ORR on 1 August 2013. On 23 August 2013 ORR published its draft conclusions document regarding the structure of charges for charter operators in CP5, which this letter responds to.

## Variable Usage Charge (VUC)

### Summary of ORR's Draft Determination

ORR accepted Network Rail's proposed VUC rates, including light locomotive rates, for charter operators in CP5. These rates are set out in Table 1, below. ORR supported our view that these amendments would make the VUC more cost reflective.

<b>Charter VUC (£ per train mile)</b>			
<b>Service type</b>	<b>VUC rate - CP4</b>	<b>VUC rate - NR May 2013 consultation</b>	<b>VUC rate - NR August 2013 conclusions</b>
Loaded train or ECS train hauled by diesel or electric equipment or consisting of EMU or DMU	1.21	1.20	1.05
Loaded train or ECS Train hauled by steam driven equipment	1.45	1.52	1.05
Light locomotive movements (non-steam)	No charge rate for CP4	0.63	0.56
Light locomotive movements (steam)	No charge rate for CP4	0.95	0.60

**Table 1:** Charter £ 'per train' miles, VUC rates (2012/13 prices end CP5 efficiency) – Charges are in 2012/13 prices and end CP5 efficiency.

### Network Rail response

We welcome ORR's draft conclusions with respect to the VUC for charter operators in CP5. We continue to believe that these proposed rates improve cost reflectivity and allow Network Rail to recover its variable usage costs from those operators who cause them to be incurred.

We are, however, currently reviewing whether from a billing perspective it is possible / administratively efficient to identify light locomotive movements and charge them a separate rate as proposed in our conclusions to ORR. In particular, we are considering the feasibility of isolating steam light locomotive movements, travelling with a support coach, for charging purposes. We will write to ORR, copied to charter operators, in due course setting out our proposed way forward in relation to this issue.



## Traction Electricity Charge (EC4T)

### Summary of ORR's Draft Determination

ORR considered it appropriate that charter operators should pay for their use of traction electricity based on market rates in CP5, as opposed to indexed rates. ORR, however, expressed concern with regards to the potential administrative complexity of the billing arrangements for charter operators' use of EC4T.

### Network Rail response

We welcome ORR's Draft Determination that charter operators EC4T charge should be based on market rates, rather than indexed charges. We are investigating ORR's concerns in relation to potential administrative complexity and will write to ORR, copied to charter operators, in due course setting out our proposed way forward in relation to this issue. We intend to combine our proposal in relation to this issue with our proposal in relation to VUC light locomotive rates discussed, above.

## Electrification Asset Usage Charge (EAUC)

### Summary of ORR's Draft Determination

ORR was content with our proposal to charge charter operators on a consistent basis with other passenger services. The proposed CP5 EAUC rates for charter operators are outlined in Table 2, below.

<b>Proposed CP5 EAUC rates for charter operators</b>		
	DC (third rail) pence per electrified vehicle mile	AC (OLE) pence per electrified vehicle mile
<b>Control Period 5 (CP5)</b>	0.72	1.62

**Table 2:** Proposed EAUC rates for CP5 for charter operators. All rates are in 2012/13 prices and end CP5 efficiency. Note, these rates are consistent with those proposed for passenger operators.

### Network Rail response

We welcome ORR's draft conclusion with respect to EAUC for charter operators in CP5. We continue to believe that this would be cost reflective and allow Network Rail to recover electrification asset usage costs from those who cause them to be incurred.

## Schedule 4

### Summary of ORR's Draft Determination

ORR confirmed our proposal to continue to exclude the Schedule 4 regime from charter operators' Track Access Agreements (TAAs) in CP5.

### Network Rail response

We welcome ORR's draft conclusions with regards to charter operators and the Schedule 4 regime.



## Slot and Cancellation Charges

### Summary of ORR's Draft Determination

ORR was content with our proposal to retain the current structure and level of Slot and Cancellation charges in CP5, after adjusting for inflation.

### Network Rail response

We welcome ORR's draft conclusion with respect to Slot and Cancellation charges for charter operators in CP5. We continue to believe that these charges remain reasonably cost reflective.

## Station charges

### Summary of ORR's Draft Determination

ORR did not conclude on station charges, as these are not approved as part of PR13. However, it considered that the consultation responses that Network Rail received were useful.

### Network Rail response

We note ORR's conclusions in relation to station charges and will discuss potential improvements to the existing arrangements with charter operators in CP5.

## Schedule 8

### Summary of ORR's Draft Determination

In its draft conclusions, ORR stated that it would:

- introduce benchmarks for the charter Schedule 8 regime calibrated on the basis of all delay minutes; and
- introduce a menu of caps and ACS options which include a 10% uplift to reflect the risk premium placed on Network Rail, as shown in Table 3, below.

ORR's illustrative example of ACS values with two different cap options (draft rates)	
Cap (delay minutes/100 miles)	ACS (£/train mile)
80 delay minutes	1.33
147 delay minutes	0.94

**Table 3:** ORR's illustrative ACS values with two different cap options (draft rates). All rates are in 2012/13 prices and end CP5 efficiency. Please note, the above rates are draft.

In addition to the, above, ORR also concluded that it would:

- introduce a yearly adjustment<sup>1</sup> to the charter operator benchmark to reflect changes in traffic across the network – consistent with the freight Schedule 8 regime, and;

<sup>1</sup> ORR proposes to make the yearly adjustment to the charter Schedule 8 benchmark, with the formulae outlined on page 16, of its draft conclusions letter of 23 August 2013.



- introduce annual Schedule 8 caps for all charter operators of approximately £0.5m.

It noted that all these proposals would result in a charter Schedule 8 regime that is transparent, financially neutral with appropriate incentive properties.

#### Network Rail response

We welcome ORR's proposal to set explicit Access Charge Supplements (ACSs) for charter operators in exchange for the provision of incident caps. We believe that this approach is transparent and has worked well in the freight regime. We agree with ORR that it is appropriate to be consistent with the freight regime and that it is appropriate to provide an uplift to reflect Network Rail's risk.

We believe that it would be appropriate for the minimum cap to be set at the same level – in terms of minutes – as during CP4. This would ensure that Schedule 8 continues to provide appropriate incentives under 'normal' circumstances, but provides a safety net for operators.

We also consider that it would be appropriate to provide a 'menu' of caps that has a slightly larger number of options than that set out by ORR in order to ensure that the differing needs of operators are catered for. We believe that the options for caps should be as follows:

- 147 minutes;
- 225 minutes;
- 300 minutes; and
- 500 minutes.

The table, below, sets out the associated ACSs (assuming a payment rate of £62.29 in 2012/13 prices). This is based on data from the **calendar years** 2010, 2011 and 2012. The table presents two scenarios: one in which the West Coast Railways ECML line side fire incident of 2 September 2011 is included; and another in which it is excluded. Note that this incident was not captured in earlier figures shared with ORR since this incident was in dispute.

Minutes	Including West Coast Fire	Excluding West Coast Fire
<b>147</b>	£1.08	£0.66
<b>225</b>	£0.89	£0.47
<b>300</b>	£0.77	£0.35
<b>500</b>	£0.59	£0.18

We consider that it is appropriate to include the West Coast Railways ECML line side fire incident of 2 September 2011 in the analysis, since this follows the principles used elsewhere in calibrating the Schedule 8 regime.

We welcome the introduction of a yearly adjustment to the charter operator benchmark to reflect changes in traffic across the network and believe that it is appropriate that this mirrors the figure in the freight regime.

#### **Capacity Charge**

##### Summary of ORR's Draft Determination

ORR reiterated its intention to introduce a Capacity Charge for charter operators, consistent with its Draft Determination. ORR noted that the Arup Capacity Charge would only be levied on charter services, for traffic above a baseline and will be consistent with the charge for other services. It will



conclude on the basis and level of the Capacity Charge for charter operators, in October 2013, as part of its Final Determination.

For illustrative purposes, ORR included indicative estimates of possible Capacity Charge rates for charter operators, based on rates provided by Arup – as shown in Table 4, below. ORR notes that the rates provided by Arup would only be levied above a baseline and that average Capacity Charge rate per train mile would be considerably lower than those implied by the Arup’s rates as shown, below.

Indicative estimates of capacity charge for charter services (£ per train mile)		
CP5 estimate	Weekday rate	Weekend rate
Consistent with CP4 rates	0.24	0.18
Consistent with Arup rates	1.20	0.80

**Table 4:** Indicative estimates of capacity charge for charter services (£ per train mile). All rates are in 2012/13 prices and end CP5 efficiency.

Network Rail response

We understand that ORR wants to ensure consistency across the regulatory regime by introducing the Capacity Charge for charter operators in CP5. In order to ensure consistency with the approach applied to freight and open access operations, we believe that the RDG proposed open access ‘washup’ approach should be applied to charter operators in CP5<sup>2</sup>. In particular, we consider that there should be a single washup for all charter operators.

**Next steps**

On 13 September 2013, ORR published its consultation on implementing the revised structure of charges for charter operators in CP5 through changes to the charter TAAs. Following this process, on 31 October 2013, ORR is due to publish its Final Determination with respect to the structure of charges for CP5, which will include those charges payable by charter operators.

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

If you have any queries in relation to any aspect of this letter, please do not hesitate to contact me.

Yours sincerely

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<sup>2</sup> Please see RDG website available at: [Rail Delivery Group](http://Rail-Delivery-Group.com)

