

## CONSULTATION RESPONSE

### SCHEDULES 4 AND 8 POSSESSIONS AND PERFORMANCE REGIMES

#### RESPONSE BY EXETER CITY COUNCIL

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##### **i How this response has been compiled**

This response has been prepared with the approval of the Council's Portfolio Holder for Sustainable Development and Transport.

##### **ii Introduction**

We have limited our response to this consultation to one important issue; that of the proposed lifting of the incident cap on charter operations (questions 44 and 45).

*Q44 Do you agree with our proposal not to require Network Rail to provide incident caps to charter operators on the basis this currently results in a subsidy to charter operators? If not, please tell us why?*

*Q45 Do you agree that incident caps are something that could be provided to charter operators by the private insurance market? If not, please tell us why?*

##### **iii Our response**

1. Our answer to both of these questions is "no"; in other words we favour option (c) in paragraph 7.14, namely that an incident cap continues for charter operators, without their having to pay an access charge supplement (ACS).

##### **The benefits of charters**

2. Charter trains provide a very tangible benefit to the economy of destinations up and down the country. In relation to the new Borders railway, the successful campaign to have it constructed so as to enable charter operations estimated a £500,000 benefit to the local economy. Devon and Cornwall with their scenic railways are particularly well served by charters, and the contribution made to the West Country's economy by these trains would be sorely missed if some or all of them ceased to run as a result of the proposed changes to the incident cap regime. We have identified seven charters

in the 2013 calendar with Exeter as a destination (with visitors having time to explore the city), and many more passing through.

3. There is another less tangible benefit, in that charters (and steam charters in particular) provide far-reaching positive publicity for the rail industry as a whole. To catch sight of a steam or heritage diesel charter provides members of the public with a highly visible reminder that railways exist, and indeed are an enjoyable means of transport. Publicity of this kind is invaluable to those of us in local authorities who strive to promote the railways generally as a sustainable travel mode.

### **The risk**

4. It is accepted in paragraph 7.15 of the consultation document that options (a) and (b) would increase the costs of charters, through funding a greater proportion of the revenue loss to others due to charter caused delays.
5. To remove the incident cap altogether would create a potentially unlimited financial risk to a charter operator every time it operated a train. The possibility of insurance, or an incident cap funded by an ACS, would at least spread the cost across the charter industry as a whole.
6. However, to leave charter operators at the mercy of the insurance industry could not be guaranteed to reduce the risk, or the cost, to acceptable levels:-
  - It is not known whether a suitable insurance product would be available.
  - If it were, the premium might be unaffordably high.
  - Insurers and therefore operators would be likely to end up in protracted disputes over delay attribution.
  - Exclusions might prevent a claim in some cases.
7. At best, these factors would add to the cost of charters. Where profit margins were small, they could reduce the number of trains operating. At worst, most or all charters could be priced out of business. The potential effects are unknown, and once they became known, it could be too late to save the charter industry. That is not a risk worth taking.
8. Option (a), to retain the incident cap funded by an ACS, appears to have less adverse consequences. The level at which the ACS would be pitched would be all-important; too high, and it would similarly price charters out of business.

### **A level playing field**

9. It appear disingenuous to state (in paragraph 7.19) that the incident cap is a subsidy, as if this in some way gives charter operators an unfair advantage. Franchised Train Operating Companies (TOCs) receive considerable subsidy from the government and therefore the taxpayer. Nor are charter operators always given equal treatment; for example, in relation to late confirmation of available train paths, and sporadic bans on certain routes. It is not unreasonable that their operations have to fit around the day to day workings of the railway, provided that this is reflected in the financial arrangements that affect them. The incident cap is one such arrangement.

### **Conclusion – it's the economy .....**

10. As mentioned above, the economic benefit of constructing the Borders line to accommodate charters was estimated at £500,000 per annum. That estimate was clearly sufficiently credible to influence the relevant decision makers. Multiplied across all destinations served by rail charters, the economic benefit must run to millions every year. However, the cost to Network Rail of the charter cap is said to have been £660,000 over the whole period since the start of Control Period 4.
11. On these figures, the contribution to the economy from charter operations on one line alone would pay for the incident cap. Overall, the contribution to the British economy from charters is far greater than this “subsidy”, and the saving does not justify putting at risk the whole charter industry and the benefit that flows from these trains.