

# STRATHCLYDE PASSENGER TRANSPORT

## International Rail Passengers' Rights and Obligations

### Consultation Response

#### 1 Introduction

- 1.1 Strathclyde Passenger Transport (SPT) is responsible for the regional passenger transport planning of all modes of public transport within its area under the provisions of the Transport Act 1968. The SPT area covers west central Scotland and includes over 42% of Scotland's population.
- 1.2 International rail travel has an impact on SPT's ability to achieve its policy objectives. The dense commuter rail network that serves west central Scotland, and is the largest supported rail service outside of the London area, has to operate smoothly and efficiently alongside interregional services, for example, West Coast Mainline operators. SPT has considerable experience of operating rail services in a privatised rail industry – over two thirds of Scotland's rail passengers use the SPT/ScotRail network. Quality standards have been in place (SQUIRE) for more than five years now and we believe that we have extensive experience of how the GB rail industry works and hence our interest in forwarding comments on this consultation. We work with the statutory Rail Passenger Council (consumer body).
- 1.3 International rail travel in Europe is becoming much less competitive. For example, it can cost twice as much to travel by rail from Madrid to Brussels than fly with a 'no frills' airline. Regional trains providing services in the border areas of Western Europe are becoming more rare. These services are strategic for some areas whose economies are based on cross-border trade, as it is the case of the Liege/Aachen/Maastrich triangle.
- 1.4 We think that this is due in a big part to the lack of interest of Member States in international passenger rail travel. While domestic rail services are covered by public service obligations, international rail transport is left to the action of the market. Considerable public investment in high-speed lines has increased the number of passengers on some international routes, but in the majority of cases, international services are not sufficiently attractive.
- 1.5 SPT thinks that only public intervention at EU level can secure international rail travel and slow its disappearance and we welcome the European Commission's consultation as a first step for a regulation of international rail services of passengers. It is necessary to create a

framework in which rail companies provide services that are attractive to international travellers.

- 1.6 Rail transport is environmentally friendly and helps to reduce traffic congestion on interregional road corridors. Faced by the low taxation in aviation, the efficiencies of rail transport should be taken into account in the price of international rail tickets. We think that the best way to pass such efficiencies to consumers is by imposing public service obligations on international rail services.
- 1.7 The imposition of public service obligations raises the question of which of the public administrations should impose such obligations. We think that the European Community should be the administrator. The proposed European Railway Agency, although thought to deal with safety and intermodal issues, could be the administration in charge of the imposition of public service contracts.

## **2 Public Service Obligations**

- 2.1 As explained, we think that public service contracts between the European Railway Agency and public or private operators would help making long-distance and regional international rail transport more attractive. The UK experience shows that public service obligations are not a synonym for monopoly. In the UK some operators run on the same railway and compete on certain parts of the route. Therefore, we do not think that public service contracts would prevent competition on routes which are highly attractive to operators, as it is the case of the Brussels/Paris high-speed link.
- 2.2 However public service contracts would make prices more attractive on long-distance routes that cannot compete with air services. Public service contracts could also boost regional rail services.
- 2.3 We think that public service contracts should be tendered by the European Rail Agency at EU level. Incumbent national operators would be entitled to participate in the tendering, competing with other private or public operators. The conditions to organise such tenders and contracts should be included in an EC regulation.
- 2.4 It would be necessary to create a European fund to finance the imposition of public service obligations. Public services contracts should deal with quality performance and promote a better service. We think that EU remuneration from such a fund should be linked to the achievement of quality performance.

## **3 Scope of a Regulation on Passengers' rights at EU level**

- 3.1 SPT believes that occasional international services should be excluded from the scope of the Regulation if such a service is not a service open to the public. We think that the Regulation should focus exclusively on international rail services that operate exclusively within the EEA territory.
- 3.2 We understand that the position we are defending may be discriminatory to other means of transport, more specifically to air transport. The Commission has proposed to regulate passengers' rights for international and domestic air transport services. In the case of rail services, we think that the Community should only regulate the passengers' rights on international services and leave domestic services to national regulation.
- 3.3 Therefore, a passenger flying from Naples to Milan will be covered by the new Commission's proposal and that entitles him to claim a refund if the plane arrives late. However, if the same passenger takes the train to travel from Naples to Milan, he will have no right to claim any refund if the train arrives late.
- 3.4 We believe that in the long term, the European Community will have to deal with this problem and recognise the same passenger rights for travelling on domestic and international rail services. However, the liberalisation of air transport took place more than ten years ago and the European Community has a long history of regulation of the air transport industry. We believe that the European Community should focus on the regulation of passengers' rights for international rail services.
- 3.5 International rail transport in the border areas should have a different treatment from long distance international transport of passengers. Regional services in the border areas should focus on daily commuters who are often cross-border workers. Train should be an alternative to the use of private transport for these cross border commuters.
- 3.6 We do not think that international regional services would have the same conditions required for a long distance travel. Therefore some of the services we are proposing for long distance travel like luggage check or a strong refund policy may not be applicable to these services.

#### **4 Regulation of Consultation of Consumer and Passenger Organisations**

- 4.1 SPT organises consultations in the SPT area to improve the quality of the services provided by operators or by SPT itself. In the case of international rail services, consultations should be organised at EU level, allowing transport organisations and national administrations and consumers associations to give their own opinion.
- 4.2 It does not make sense to organise separate consultations in every country crossed by an international rail service. It would also be more

difficult for the national administrations affected to co-ordinate a common consultation, than to have it organised by an EU Agency. Therefore, it makes sense to have the European Railway Agency co-ordinate such consultations with the help of the Member States affected.

## **5 Conditions of Contract**

- 5.1 In the UK, most of the tickets make reference to a place where passengers can read the general terms and conditions. This system seems to have worked well so far. However, we think that the operators should show posters explaining the right of passengers and how to file complaints, as it was done with the rights of air passengers in the past.

## **6 Tickets and Fares**

- 6.1 In a complex system with many operators and franchisees like the UK rail system, it is very important that all operators have access to other operator's fares and information. In the UK, passengers can acquire a long distance ticket that gives them the right to use different train services from different operators. The Association of Train Operators is in charge of the ticketing and settlement of revenues between operators. We think this is a good way to keep a consistent system that allows European passengers to travel seamlessly in different train with different operators.
- 6.2 If the European Community follows this system, it would be necessary to have a regulation entitling an international association of operators to carry on the ticketing system and settle the revenues between operators on international rail. Such an agreement between operators would fall under Article 81(1) of the EC Treaty. However, in the present situation where international passenger rail travel is in declining, we think that the benefits of this system would compensate such a restriction to competition. Therefore, the regulation should contain a block exemption for ticketing under Article 81(3) of the EC Treaty. The European Commission should be able to withdraw the exemption and re-evaluate the system after a certain time. We propose that the exemption last at least five years.
- 6.3 Another important action would be the obligation to disclose all fares to a Computer Reservation Systems (CRSs). Most of the travel agencies use CRSs and they have proven to be a valuable tool on international air travel. Making all fares and timetables available to CRSs would allow travel agencies to book international rail services without going through any train operator's booking system. The number of rail bookings made through CRSs is too low. To increase the use of CRSs on booking international rail services a large reduction in the booking fees should take place. It would be necessary to reform the Code of Conduct for CRSs to establish separate booking fees for airlines and international

rail. International rail passenger services should have cost-oriented CRSs' booking fees to make the use of CRSs attractive to travel agents. The experience of the CRSs' behaviour with the airlines in the past has shown the need of CRSs to be treated by the CRSs Code of Conduct as an essential facility for booking.

- 6.4 It may be necessary to compensate CRSs for the treatment of bookings on international rail travel. We think that compensation should be within the framework of the public service contracts.
- 6.5 Ticketing systems are difficult for the travelling public to understand. We consider that incumbent railways undertakings should be obliged to allow new railway operators to use existing ticketing systems in order to ease distribution of tickets. There is no other alternative if the European Community wants to bring new operators into new international rail services.

## **7 Monitoring Service Quality and Quality Standards**

- 7.1 From our experience of specifying and delivering rail services on the Strathclyde network (the largest outside of London in the UK), we consider that the establishment of a monitoring scheme is the only way to know whether passengers are receiving the transport service that they deserve and are paying for through fares and the public purse.
- 7.2 Although we think that the indicators used to monitor service quality should be regulated at EU level, it would be more efficient if inspectors from the Member States undertake the inspections. We propose that the European Rail Agency monitors the Member States to ensure that the inspections are carried out correctly. Member States should inform the Agency every three months of the results of the inspections.
- 7.3 The Agency should be in charge of treating this information and making it public. The first round of franchises in the UK has shown the importance of making public the result of the inspections. A report of the inspections should be published at least on annual basis by the European Rail Agency.
- 7.4 Passengers on regional international services do not expect the same level of comfort and services than passengers on long-distance international services. However, passengers expect a higher reliability and punctuality from the regional services. Therefore, quality indicators relating to special services like ICT facilities, registering luggage, etc. would not apply to regional services.
- 7.5 However, many indicators should be common to both types of services. Monitoring of service quality should not only focus on the trains but on the facilities and cleanliness of the stations.

- 7.6 The experience acquired by the UK in the first round of franchise agreements shows that it is necessary to impose the highest requirement of quality standards on a railway operator to get passengers' satisfaction. We are convinced that only if a public authority monitors such quality standards, will operators deliver a service attractive to passengers.
- 7.7 Quality standards should be included in the public service contracts that we are proposing. We think that there should be an EC regulation indicating the quality and reliability standards used in the public service contracts. As explained before, we think that the contracts should have a scheme linking quality performance and State remuneration.
- 7.8 In the same way of thinking, we think that the European Railway Agency should co-ordinate contingency planning with operators, national administrators and infrastructure managers.

## **8 Complaint handling**

- 8.1 SPT sees the complaints as an opportunity to know the opinion of passengers and improve the quality of services. This has been the case of some operators in the UK, but it has not been the case of some others. Some operators wanted to reduce costs and did not have sufficient staff resources to deal with complaints in a reasonable timeframe. From the experience of the first round of franchises in the UK, we feel that regulators should closely follow how operators are dealing with complaints. We therefore think that complaint handling of international rail services for passengers should be included in a regulation and appear as a specific quality indicator in the public service contracts.
- 8.2 From the experience acquired in the UK, we think that the public analyses of the complaints is something positive that should be published annually and discussed with passengers organisations and national regulators.
- 8.3 There should be a one-stop shop for complaint handling and passengers and should not need to see the appropriate person unless they want to. In the same way, operators and travel agents should collaborate among themselves to make sure that a complaint filed on the wrong place arrives with the correct operator. Four weeks seems a reasonable time to answer a complaint.
- 8.4 It is a principle of Consumer Law that consumers cannot be required to know foreign languages. We think that passengers should have the right to complaint in any of the official languages of the EC used in the countries where the international rail service is operated. However, it would be too much of a burden for a foreign operator to deal with languages that are official in a country but they are not official in the EU. Languages that are not official in the EU should not be included. This

principle would apply irrespective of the official language of the country where passengers file the complaint. In the case of Eurail and Interrail cards, the languages of the complaint should be those of the area of validity of the ticket in addition to the language of the country where the ticket has been acquired.

- 8.5 It is also a principle of the Vienna Convention and the Brussels 1 Convention that consumers have the right to choose a court in their place of residence in cases of litigation. We think that the same principle should apply to a case that ends up in litigation. It would be an unfair charge for consumers to litigate in the country of residence of the operator.

## **9 Liability for death and injury**

- 9.1 We think that there should be a general limit of the liability of railways undertakings as to make possible mandatory insurance possible at a reasonable cost. This is especially important in case of death and injury of the passenger.

## **10 Refund Policy**

- 10.1 We think that there should be an EU-wide approach in relation to minimum requirements regarding refund policy.
- 10.2 We agree with the principle to reimburse passengers for consequential damage in case of delays. When infrastructure managers are responsible for the delay, we think operators should compensate passengers for the delay and claim the money back to infrastructure managers.
- 10.3 The amount of compensation should be in proportion to the value of the ticket and the extent of the delay. We do not think there should be a minimum fixed amount for compensation. In cases of cancellation of the service, operators should pay the whole amount of the ticket.
- 10.4 When the train has been cancelled or delayed, operators should have an obligation to announce in the station that passengers can claim reimbursement.
- 10.5 We think that to make international travel reliable and attractive a compensation policy should apply to all passengers and not only to business travellers.

## **11 Services for persons with reduced mobility (PRM)**

11.1 Persons with reduce mobility should be involved in the consultation process to enable an improvement of the services and access to international rail travel. We think that the Commission should propose a regulation including an obligation for the operators to provide more information on available services for PRMs and training of their staff to deal with the needs of PRMs. International stations should be accessible for PRMs and there should be specific public transport service that is accessible that can convey PRMs to those stations. SPT has a wheelchair accessible Dial-a-Bus service that provides this kind of services to PRMs. There are also accessible taxi services in the Strathclyde area.

## **12 Services for bikes**

12.1 We think that the transport of bicycles should be seen as a facility for both the leisure and the commuter market in the case of international rail travel.

## **13 Services for people with excessive luggage**

13.1 Train operators are abandoning the transport of registered goods and baggage. We think that this is one of the points that could make international travel more competitive in relation to air travel. Air passengers with excessive luggage have to pay very expensive fares for their excess of luggage. That should not be the case in rail, where luggage weight is not as important as in aviation.

13.2 However, because train operators do not offer the possibility to register their luggage, passengers must pay attention to their luggage during the travel. A good registered service, with appropriate security checks/x-ray equipment) would improve the security of international rail travel and would give the opportunity for passengers to store their luggage. It is clear that this service will not be useful if the luggage is sent in a night train that will arrive one day after the passenger arrives at the destination. Luggage must travel in the same train as the passenger who has registered it.

13.3 International regional services would not offer this kind of service.

## **14 Security**

14.1 In our own experience, petty crime in the stations has been strongly reduced with the installation of Closed Circuit TV (CCTV). Passengers should also have the possibility of filing a complaint to the police at all major stations.

14.2 The problems of misbehaviour and hooliganism on trains are more difficult to find a solution. We live in a society where social rules are

difficult to enforce. We do not agree in giving controllers and on-board ticket staff law enforcement authority. This is a job for the railway police in the UK and the local police force.

- 14.3 International rail services stop only at major stations. Therefore, it should be possible for the on-board staff to contact the police at the next station to come onto the train, when they are not capable of keeping order onboard. Police should have jurisdiction in the train when the train is crossing a different country of the country of origin of the police. The criminal law applicable should remain the law of the country of the crime committed.
- 14.4 We think that because of the nature of the measure we are proposing, the European Community should not legislate on the security and jurisdiction aspects of international rail travel. Instead, the European Union should take it under the third pillar.
- 14.5 The operators and the police should treat complaints about crime as the most important complaint. A recognised standardised form would help.

## **15 Passenger Obligations**

- 15.1 We think that there should be common rules at EU level which should determine the surcharge in cases of travel without a valid ticket applicable to international rail passenger transport. However, because we think that reservations should be compulsory for all long-distance international rail services, free riding should not be a common case. The obligation of a valid reservation and check-in will improve security and will allow operators yield management.
- 15.2 In the case of regional services, a valid reservation and check-in is not necessary. In this case, travel without a ticket would be a more frequent situation. Attacking free riding, by having a sufficient number of controllers is an indicator that should be included in the regulation and public service contracts.
- 15.3 We agree that there should be common rules at EU level to deny a passenger the right to board a train or to have access to a station, if that passenger might endanger safety and/or security on board international services. However, this is something that should probably be treated under the third pillar.

## **16 Intermodality**

- 16.1 Some airlines are proposing a combined flight and rail ticket in which the airline registers the baggage at the beginning of the combined travel and gives it back when the passenger arrives to the destination. As high

speed rail develops around Europe we may expect that this kind of practice will increase.

- 16.2 We think that it very important that the Commission proposes in the regulation a prohibition of any exclusivity between the airlines and the train operators. All airlines should have access to this kind of services and no train operator should have the exclusivity of the flag carrier that is dominant in the country or on a specific route.
- 16.3 So far CRSs show this kind of combined rail/flight ticket as airline ticket. We think that rail operators should also be capable of selling this kind of combined ticket. CRSs should show options, a combined ticket from the train operator and a combined ticket from the airline. Having the possibility to acquire the combined ticket from the airline or from the rail operator should increase competition and benefit consumers.
- 16.4 Combined rail/flight travel is beneficial for the environment and reduces congestion in air space and on roads. Besides, the combination of rail/flight increases the catchment area of an airport and increases competition among airports, as it is already the case of Paris-Charles De Gaulle airport and Brussels-Zaventem in long flight routes. The European Railway Agency should promote this kind of combined travel imposing conditions that make it economically viable.