



## **The potential impact of a separate Scotland on existing and future cross-border rail franchises**

### **Introduction**

The Associated Society of Locomotive Engineers and Firemen (ASLEF) is the UK's train driver's union representing approximately 18,000 members in train operating companies and freight companies as well as London Underground and Overground. ASLEF has over 1,600 members in Scotland.

### **Executive Summary**

ASLEF believes that Scottish independence could open a Pandora's box in regard to cross-border rail services. The franchising system in the UK means it is difficult to find comparators elsewhere in Europe. Duplication of both services and regulators may well lead to higher costs and thus bigger bills for the taxpayer for very little benefit in terms of service. It could also negatively affect rail freight. There will also be an issue of the validity of Government choosing franchises that will run in another independent country over which it has no legitimacy. The effect on staff must also be considered.

1. ASLEF believes that there will be many difficult challenges if Scotland becomes an independent country. The first and most obvious issue being the effect it will have on cross-border franchises. East Coast, West Coast, CrossCountry and TransPennine Express are vital services within Scotland but will ultimately be picked by a Government that has no representatives or jurisdiction in Scotland.

2. As things currently stand, the ScotRail franchise is devolved to Transport Scotland. There would be fewer reasons for there to be significant changes to this service. This does not mean that there will be no change. For example, the Scotland Act means that the Scottish Government is still confined to the Railways Act. Therefore Scottish Governments, whether they support it or not, must continue to use the franchising system to supply rail services. On top of this, Section 25 of the Railways Act 1993 prevents any public sector ownership of franchises. Clearly, independence would stop this stipulation being in place, thus allowing a different form of rail provision in Scotland. It should also be remembered that the ScotRail franchise runs services into England. the Caledonian Sleeper which services London, Watford and Preston. On top of this, the standard ScotRail franchise also operates in England. One line goes from Glasgow to Newcastle via Carlisle.
  
3. It is clear that the current devolved powers still enable the Scottish Government and the UK Government to run services that cross borders, full independence will however raise many new questions. Currently, the Scottish Government is a formal consultee in the process of refranchising. Additionally Westminster has jurisdiction over Scotland and has bodies, (such as the Scottish Affairs Committee) that ensure that Scottish voices and opinions are heard on transport issues. Therefore, whilst the four main cross-border services are let by Westminster, parliament has legitimacy to make decisions effecting Scotland. Should Scotland become an independent state, this would of course change. A situation would surface where the British Government are choosing a provider of services for another sovereign power. Alternatively a situation could arise where both Scotland and the UK decide to duplicate services with both running cross-border traffic between the two countries. This may mean double the cost as both authorities subsidise both TOCs making the services more expensive to British and Scottish taxpayer. Another negative effect would be reduced capacity for rail freight that runs over these lines. Much of this traffic is highly important and rail freight has the potential to be a key area of green growth for the economy. Every effort must be taken to allow paths to expand, not shrink.

4. Of course there are many examples of cross-border services throughout Europe. However the United Kingdom's Rail network is unique in subsidising long distance operators to private companies. As explained in the McNulty Report, "franchising in Europe has tended to focus on subsidised regional services, with the majority of services continuing to be operated by the former state monopoly train company." Cross-border services are not franchised, any agreements on services are therefore signed up to in the knowledge that the operator is not scheduled to change at regular intervals. It is likely that this will create additional difficulties when dealing with services going from one country to another. It could mean that negotiations would have to reopen between the independent states every time a new franchise is awarded. This will add even more fragmentation and cost with money going to solicitors, consultants and accountants causing additional funds to leave the industry. ASLEF would suggest that whilst pan national services are the norm across Europe, the additional difficulty of franchising will be a new and challenging barrier to an efficient system.
  
5. Many lines within the rail network rely on the cross subsidy on their services. A good example of this is the West Coast Mainline. London to Preston is extremely profitable. This allows the line north of Preston which is not profitable to rely on profit from the rest of the line leading to a smaller state subsidy. If the profitable section of this line resides in England with the loss making line in Scotland, will the Scottish taxpayers be required to pay a high subsidy to the franchise owner? This could mean a higher price to the Scottish taxpayer for a service that their elected representatives had a far smaller role in procuring.
  
6. The role of Network Rail would have to be considered as well. Would an independent Scotland take over all of the rail infrastructure in Scotland? Network Rail has an enormous debt. They are currently £28 billion in the red. Will the new Scottish Government take up a proportion of debt and interest that can be attributed to the network north of the border?

7. There is also a danger of removing economies of scale in regard to maintenance and track renewal. Varying standards would also have to be avoided.
8. Another key consideration would be regulation. Currently the ORR is the regulator for the whole of the rail network in the UK. Would this responsibility become transnational or would Scotland have its own regulator? If this was the case, would responsibility for regulation strictly end at the border meaning two organisations could be responsible for one line and one Train Operator? This could lead to greater costs for TOCs. They would now have to comply and liaise with two regulators rather than one. As we have learnt from experience, in the railway increased costs come from the pocket of passengers and the taxpayer. Not the profit of the private companies. Not only could this mean that regulation of the railway would be disjointed, it could lead to a duplication of responsibilities. The Scottish Government would need to set up a whole new regulator to do the work once under taken by the ORR. This would be a significant cost to the taxpayer for no additional benefit than the status quo offers.
9. ASLEF believes in nationalisation of the whole rail network. However the Union believes that the benefits of nationalisation would be greatest on intercity routes. Should the East Coast, West Coast or CrossCountry franchises be nationalised, once again the prospect of running through two independent countries adds to the complications.
10. The potential effect on staff should also be considered. One major change that may not have been considered is pensions. If Scotland became an independent country, TOCs that are cross-border would suddenly have cross-border pension schemes. Regulation around cross-border pensions are covered by additional European law. Schemes must be fully funded with any time limits for recovery periods being very tight. Additionally valuations must take place every year rather than triennially. This will increase costs. This will mean that our members face the prospect of unaffordable contributions or reduced benefits simply due to new administrative processes.

11. ASLEF would also strongly oppose any detrimental effects to staff's travel facilities. Protected and safe-guarded staff receive a certain amount of free travel across the UK. Should Scotland become independent, this could affect our member's benefits which are enshrined in British law. ASLEF would therefore demand that members on both sides of the border continue to have the right to free travel post possible independence that they had prior to secession.

12. It is difficult to know exactly what effect Scottish independence will have on cross-border rail franchises. It would certainly open a Pandora's box. Cross-border services are common place across Europe and indeed the world. But the British system of franchising is unique. This makes it extremely difficult to find comparative services and learn lessons. For this reason, in the event of a yes vote for independence, the provision of these services will be extremely complex and for the good of the rail network in both Scotland and the remaining nations in the UK, no mistakes can be made.

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