

Ms Ellie Harrison

info@bringbackbritishrail.org

In 2014 Scotland Welcomes the World



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Dear Ms Harrison,

Thank you for your email of 27 September regarding Public Ownership of Scotland's Railways, and thank you for providing the web references which I reviewed with interest. May I take this opportunity to congratulate you on your campaign and for securing so many supporters in such a relatively short period of time.

As you have identified, rail franchising is a requirement under the Railways Act 1993, which was introduced by a previous Conservative Administration. That act precludes any United Kingdom public sector organisation from bidding to operate a railway service. However, no such barrier applies to state-backed organisations from Europe or elsewhere, and I – like your many supporters – believe that that is fundamentally unfair and constraining. It is unfair because it discriminates against UK or Scottish interests, and it is constraining because it restricts the range of options that are available for the operation of our railway services. As I have stated publicly on many occasions, it is the unfairness of the restriction that I find objectionable. The Scottish Government, whilst it holds no ideological position regarding the relative merits of the case for private or public franchise operation, does want to have all options available to it in seeking to secure the best arrangements to meet the needs and interests of passengers and the taxpayer.

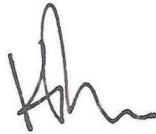
During my term of office, I have written to three secretaries of state for transport to request a change in the law and each request has been refused. When the last request was refused in 2012, prior to having to commence our refranchising process, I was left with no alternative but to embark on a commercial procurement exercise to secure rail services in Scotland. However, despite having to follow patently unfair rules imposed on us, I have always stated that the Scottish Government would do so competently. Accordingly, we set out a prudent programme and process for the Caledonian Sleeper and ScotRail franchise procurements. In May this year I announced the award of a 15 year contract for sleeper services. The programme for refranchising ScotRail services is now at such an advanced stage that I am not in position to consider an alternative approach.

I will be in a position to make an announcement later this month. However, I can advise that though the ScotRail franchise is being let for 10 years it does contain a break option exercisable before the fifth anniversary of the Franchise Commencement Date which, if exercised, will bring the ScotRail franchise to an end at the expiry of its seventh year unless the Scottish Ministers or the franchisee agree to an earlier termination. It should be noted that the break option can be exercised by either party for whatever reason they so decide.

I can assure you and your supporters that as part of the forthcoming negotiations with the UK Government regarding the extension of devolved powers, the Scottish Government will robustly make the case for the devolution of rail powers including powers to enable public sector organisations, whether directed by the Scottish Ministers or others, to operate passenger services in Scotland. Your campaign provides evidence – to both Governments – of a critical mass seeking change.

Again, I thank you and your supporters for your interest and for your informed advocacy.

Kind regards



KEITH BROWN