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Dear Mr de Niese

Maritime passengers' rights consultation

I am writing in response to the Department for Transport's current consultation on the implementation of EU Regulation 1177/2010 concerning the rights of passengers when travelling by sea and inland waterway and amending Regulation (EC) No 2006/2004.

We would like to offer one comment on what is proposed in section 6 for England and Wales generally (other than in respect of London River Services, where we endorse the view of London TravelWatch that its existing role fully covers that of a "second stage" complaint handling body, and that no change in or augmentation of this arrangement is required).

The Department suggests that the body charged with the responsibility for handling second-stage complaints elsewhere should be the Passenger Shipping Association (PSA). The PSA is a trade association representing the interests of shipping operators. This is a perfectly legitimate role, but we do wonder whether a body whose primary purpose is to protect and promote the interests of its members would find it easy to handle complaints against them in an objective and independent manner (or, even if it was able to do so, whether it would be seen in this light by complainants, particularly if and when its findings went against them). You will be aware of the widespread public and political disquiet regarding the adequacy of self-regulation and complaint handling in a number of other economic sectors.

To nominate a trade association in this capacity would be a departure from the precedent set by the government in its approach to complaint handling (including complaints arising under the provisions of passenger rights legislation) in other transport modes. In the case of rail in England, Scotland and Wales, outside the London area, this function is handled by an independent statutory agency, Passenger Focus (whose legal title is the Passengers Council). In the case of buses and coaches in England and Wales (other than TfL services), it is performed by the Bus Appeals Body. This is a non-statutory organisation sponsored jointly by the Confederation of Passenger Transport (the trade association) and Bus Users UK (a



registered charity which protects and promotes bus and coach users' interests), with an independent chair.

If, on further reflection, the government was to conclude that it may not be entirely appropriate to award this function (at least in respect of non-TfL ferry passengers in England and Wales) to an organisation which is likely to be regarded by some complainants as non independent, a possible alternative solution is available to it in the form of section 56(6ZA) of the Transport Act 1962 (as amended).

The text of this is attached as Annex A. Under this section, the Secretary of State can by order extend the remit of Passenger Focus to include any ferry service. It is currently inoperative, but was in the past used to bring Caledonian MacBrayne's services within the ambit of the Scottish Rail Passengers Committee, until that body was dissolved in 2006.

However, a further discussion about resourcing this activity would need to take place. Otherwise the interests of rail and bus passengers might be affected as limited resources would be spread more thinly.

Yours sincerely

Anthony Smith
Chief Executive



ANNEX A

Extract from the Transport Act 1962 (as amended)

56 The Transport Consultative Committees

(4) Subject to the following provisions of this section, it shall be the duty of the Passengers' Council and the London Transport Users' Committee to consider and, where it appears to them to be desirable, make recommendations with respect to any matter affecting the services and facilities provided by any of the Boards

- (a) which has been the subject of representations (other than representations appearing to the committee to be frivolous) made to the Passengers' Council or the London Transport Users' Committee by or on behalf of users of those services or facilities, or
- (b) which has been referred to the Passengers' Council or the London Transport Users' Committee by the Minister or by a Board, or
- (c) which appears to the Passengers' Council or the London Transport Users' Committee to be a matter to which consideration ought to be given.

(6ZA) If the Secretary of State so directs subsections (4) to (6) of this section shall have effect in relation to the Passengers' Council and the London Transport Users' Committee as if the reference in subsection (4) of this section to services and facilities provided by any of the Boards included a reference to any such ferry service as may be specified in the direction, whether provided by a Board or by some other person; and, in the application of subsections (4) to (6) of this section in relation to any such ferry service, any reference in those subsections to a Board shall be taken to include a reference to the person providing the ferry service.

[The Boards referred to are the British Railways Board and certain other statutory transport agencies since abolished.]