

SECTION 55

FINAL ORDER

- A. The Office of Rail and Road (“ORR”) is satisfied that Network Rail is contravening condition 1 of its network licence (“the contravention”):
- a. by failing to achieve to the greatest extent reasonably practicable having regard to all relevant circumstances its obligations to secure the operation and maintenance of the network in accordance with best practice to meet the reasonable requirements of persons providing services relating to railways in respect of the facilitation of railway service performance; and
 - b. for each Route Business (or Region) to comply with the obligations set out in A(a) above in the performance of their functions.
- B. Having regard to the matters set out in section 55(1) of the Railways Act 1993, as amended (“the Act”), ORR considers it appropriate to make a final order for the purpose of securing Network Rail’s compliance with condition 1.
- C. ORR is satisfied that:
- a. the duties imposed on it by section 4 of the Act do not preclude the making of this order; and
 - b. it is not more appropriate to proceed under the Competition Act 1998.
- D. Having regard to all the circumstances and, in particular, the factors set out in section 55(3) of the Act, it does not appear to ORR that it is requisite that a provisional order be made.
- E. ORR need not consider, under section 55(5B) of the Act, the appropriateness of the making of this order because:
- a. ORR is not satisfied Network Rail has taken, and is taking, all such steps as appear to ORR for the time being to be appropriate for Network Rail to take for the purpose of securing or facilitating compliance with condition 1; and

- b. ORR is not satisfied that the contravention will not adversely affect the interest of users of railway services or lead to an increase in public expenditure.
- F. ORR gave notice under section 56 of the Act of its proposal to make a final order and has taken into consideration all representations made and not withdrawn in relation to the proposed order.

Therefore:

- 1. In respect of the contravention, pursuant to section 55 of the Act, ORR requires Network Rail to:
 - a) Produce to ORR by 31 August 2024 a robust and evidenced plan identifying those further activities that Network Rail will undertake to secure the operation and maintenance of the network in accordance with best practice to meet the reasonable requirements of persons providing services relating to railways in respect of the facilitation of railway service performance to the greatest extent reasonably practicable. In particular, the plan should:
 - i. develop further its improvement plan for the Thames Valley section of the Western route (known as 'Project Brunel') including ensuring sufficient definition of and focus on operational culture and process improvements. It must provide a clear, timebound plan for renewing the headspans of overhead line equipment from Paddington to Airport Junction, together with a mitigation plan until that work is complete;
 - ii. set out timebound and measurable actions to deliver sustainable operational and performance improvements in the long-term across the wider Western route and Wales & Western region – which could include expansion of the approaches being adopted under the current 'Project Brunel';

- iii. set out timebound and measurable actions that adequately address the relevant findings of the 'Wales & Western Region – Network Rail, Investigation Report dated 28 May 2024' relating to the contravention, including, but not limited to:
 - improved governance around learning reviews to ensure they are fully and effectively implemented including for complex, multi-lateral incidents;
 - improved governance of train performance delivery, including how performance risks are identified and escalated; and
 - prioritised improvement plans, demonstrably based on sufficiently robust data describing key operational factors that are driving increased delay associated with each incident.
 - iv. set out how i to iii above will be governed and managed, including through any update to existing performance recovery plans; and
- b) Implement the plan consistent with any timing set out therein, or in the absence of a timing as soon as reasonably practicable and deliver to ORR within one month of ORR's request a report demonstrating why it is satisfied that the plan has been implemented.
2. If, by 31 October 2024, ORR is satisfied that Network Rail has failed to produce the plan set out at 1(a) above, Network Rail shall pay to the Secretary of State, by bank transfer to such account as notified by ORR, within one month of ORR's demand the sum of £3,000,000.

3. Nothing in this order shall be taken to permit Network Rail to breach any licence, contract or other legal obligation.

This order shall have immediate effect.

A handwritten signature in black ink, appearing to read 'John Larkinson', written in a cursive style.

John Larkinson
Chief Executive
10 July 2024