



OFFICE OF RAIL REGULATION

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Iain Coucher Esq
Chief Executive
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Dear Iain

Our investigation into your management of engineering projects

1. We wrote to you on 8 January informing you that we were carrying out an investigation into the overruns over the Christmas/New Year period at Rugby, Liverpool Street Station (London) and Shields Junction (Glasgow) and were considering whether these were indicative of wider, systemic problems. We also said that we would look at your forward programme for delivering the December 2008 timetable improvements as part of the West Coast route modernisation programme (WCRM). We then wrote to you on 5 February 2008 setting out the nature of the possible breaches that we were investigating and you responded on 11 February.

2. As part of our investigation, we have asked you a number of detailed questions and requested significant amounts of information from you, as well as holding a number of meetings with members of your team. I would like to thank you for the full and timely cooperation from you and your team under some tight deadlines. We have had further evidence and representations from a number of interested parties and have met with several key industry stakeholders to discuss their points in more detail.

3. We have now completed our investigation and are today publishing a report on our findings on our website. I enclose a copy of our report. We have also reached a view on your compliance with your licence obligations and the appropriate regulatory action.

The Christmas/New Year overruns

4. We recognise that you do many things well and that many engineering possessions are completed successfully. Even where they are not, we accept that on occasion this will be because of factors outside your control and responsibilities. However, we have identified some significant weaknesses in your approach that you need to address urgently. We consider that you need to ensure greater consistency in: your planning and execution of engineering projects and, in particular, in the assessment and mitigation of risk; the management of your suppliers; your site management, and the speed and





accuracy of the information you provide to your customers during possessions. We highlighted several of these weaknesses following the overrun of the Portsmouth resignalling scheme.

5. Although many possessions go well, we are concerned that if these weaknesses are not addressed effectively then from time to time they will manifest themselves in overruns which have a similar impact to those which took place last Christmas/New Year. Furthermore, the volume of work you are carrying out on the network is increasing, and you plan a heavy programme of engineering work in the next control period (2009-14). We consider that it is vital that you and your Board take action now.

6. We have decided that these weaknesses constitute a breach of condition 7 of your network licence which started at some point in the past and which is continuing and that we must ensure that you take action to address the weaknesses. We are issuing a draft final order requiring you to produce a robust plan by 31 May 2008, with clear milestones, which demonstrates how you will remedy the weaknesses. We require you to implement the plan and to inform us that you have done so by 31 December 2008. In addition, we require you to develop the plan in consultation with key stakeholders so that you address their needs effectively.

7. To reinforce the action we are taking and to give you stronger incentives to comply with all your licence requirements because of the effect breaches such as this can have on train operators, passengers and freight customers, we propose to levy a financial penalty of £14m.

8. We are clear that this is not only about you having the right approach and procedures, but also about you ensuring effective and consistent implementation on the ground. We will ask our reporter to monitor your implementation of the plan through the rest of this year and we intend to conduct a fuller audit early in 2009.

The West Coast route modernisation programme

9. The West Coast programme has been a key priority for you and for some of your customers and funders. You have acknowledged that your existing plan does not provide sufficient assurance that you will deliver the infrastructure capability required for the December 2008 timetable improvements. We recognise that you are reviewing the options. As things stand, we cannot be confident that you are likely to deliver the improvements. These improvements are reasonable requirements of your customers and funders and, without an adequate plan, we consider that you are likely to be in breach of condition 7. Given the importance of the programme, we have decided that the action you are taking needs to be expedited and reinforced by a provisional order requiring you, by 31 March 2008, to produce an adequate plan in consultation with your customers and funders.



Additional possession on 31 December 2007

10. We have reviewed the events leading up to you taking an additional day's possession on 31 December outside industry timescales. Your late notice inconvenienced a significant number of rail users.

11. It is clear that you did not complete procedures to revise the national timetable for temporary changes 12 weeks before 31 December 2007, as required by the licence. In fact, you did not formally advise operators of the need for the extra day until four weeks before the possession. We do not consider that either of the exceptions set out in condition 9.2(a) apply and as such we have no option but to conclude there has been a licence breach.

12. We consider that, given the circumstances at the time, you acted in accordance with the longer-term interests of your customers, rail users, and condition 7, in seeking to complete the work needed for the December 2008 timetable. This was the main reason for our decision not to make a provisional order on 19 December 2007 to stop you taking the possession on 31 December 2007. We do not consider a penalty is appropriate.

13. However, you should recognise the importance of planning your possessions in good time to enable your customers to plan their business and passengers to plan their journeys in good time. You said in your letter of 11 February 2008 that condition 9 is not compatible with condition 7 and that you will often find yourself in a position where you must choose between breaching condition 7 or condition 9. You have called for further discussions, through our planned review of your network licence this year, to find ways that allow you to make the right decision in such circumstances. We understand that it is difficult for you to plan the final details of major projects six months in advance and that there will always be the need for you to fine-tune engineering projects close to the start of the possession. However, your need for some flexibility must be balanced with the needs of the operators, passengers and freight customers. We believe that this is a matter for the whole industry to debate and resolve to ensure the right balance is achieved.

14. Our report and the enclosures to this letter contain further details of our decisions and the reasons for them, including the relevant orders and notices. You and other interested parties may make representations on the final order and on the proposed penalty by 31 March 2008.

15. Our investigation has highlighted some serious issues which have led to us taking enforcement action. We expect you and your Board to address them urgently and vigorously.



16. I am publishing this letter.

Yours sincerely

A handwritten signature in black ink that reads "Bill Emery". The signature is written in a cursive style with a small flourish at the end.

Bill Emery

Enclosures

Findings report

Continuing breach of Condition 7 - final order, reasons, and notice on penalty

Likely future breach of Condition 7, provisional order, and reasons -

Breach of condition 9 and ORR's decision not to impose a penalty for this breach