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Dear colleague

Approving operators' complaints procedures and disabled policies

Licensed passenger train and station operators have to comply with a complaints handling procedure (CHP) and a disabled people's protection policy (DPPP) that have been approved by the Secretary of State. Following consultation¹ in December 2011, the Department for Transport (DfT) has agreed ORR should take on this approval role. This letter asks you to consent to make this change to your existing licences and statements of national regulatory provisions (SNRPs) where the approval role is set out. Please provide a response by **2 August 2013**. If we do not hear from you we will assume you are content with our proposal. It also explains how ORR intends to approach its role, in the coming months and longer term.

The rationale for the transfer is that responsibilities in relation to CHPs and DPPPs are currently fragmented, being split between DfT and ORR – ORR enforces obligations through the licence and SNRP but policy, approval and compliance monitoring sit with DfT. The transfer of responsibility for approval will bring the policy, approval, monitoring and enforcement roles together.

In the case of CHPs, it will bring these functions together with ORR's role in the collection and publication of complaints data, where it is already working with the industry to improve data quality and consistency. ORR should be well placed to monitor the industry's performance in this area, for example by analysis of complaints data, as well as to engage with the industry in the delivery of improvements for passengers.

In the case of DPPPs, it will bring these functions together with ORR's existing responsibility for the enforcement of the Rail Vehicle Accessibility Regulations (RVAR) and the Persons with Reduced Mobility Technical Specification for Interoperability (PRM TSI), which relate to the accessibility of rail vehicles. It will provide ORR with a broader insight into how the industry is performing in respect of its disabled passengers and ensure it is

¹ 'A greater role for ORR regulating passenger franchisees in England and Wales' (the joint consultation), between December 2011 and March 2012. http://www.rail-reg.gov.uk/upload/pdf/regulator_role_consultation_dec2011.pdf



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better placed to identify issues of concern and engage with the industry and with passengers in the delivery of improvements.

The regulatory position for Scottish rail services did not form part of the consultation. Discussions with Transport Scotland have now confirmed that it intends the position for Scotland to be the same as the rest of GB.

Consultation responses

The proposal to transfer CHP and DPPP responsibilities to ORR received broad support from respondents to the consultation². Some respondents, however, expressed concern about the inefficiencies and confusion that might result if responsibility was transferred as franchises were renewed. DfT and ORR have therefore decided implementation will now take place in one step, to cover all affected licence and SNRP holders together.

The joint statement³ made on 18 March 2013, indicated that ORR would consult licence and SNRP holders about the changes that would be needed.

Short-term, licence and SNRP holders should not see significant differences from the current regulatory system. We will continue to use DfT's DPPP guidance⁴ and DfT will retain responsibility for the Code of Practice (*Accessible Train Station Design for Disabled People: A Code of Practice*⁵). For the time being we will also continue to use DfT's CHP guidance⁶.

Following this statutory consultation and implementation of the intended modifications we intend to develop a longer term view on how we regulate for continually improving consumer outcomes in these areas. We plan to publish a long term regulatory statement on our future approach in Spring 2014, following which we will consult on changes to the current guidance on CHPs (last updated in 2005) by Autumn 2014.

² www.rail-reg.gov.uk/server/show/ConWebDoc.10746

³ <http://www.rail-reg.gov.uk/server/show/ConWebDoc.11129>

⁴ <http://webarchive.nationalarchives.gov.uk/20120215142458/http://assets.dft.gov.uk/publications/how-to-write-your-disabled-people-s-protection-policy/peoplesproguide.doc>

⁵ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/3191/accessible-train-station-design-cop.pdf

⁶

<http://webarchive.nationalarchives.gov.uk/20100407090501/http://www.dft.gov.uk/pgr/rail/sra/sracomplaintshandling.pdf>



We will do this in full consultation with the industry and with passenger bodies. With this objective in mind, we will write to you later this year to invite you to meet and identify any concerns that you might have and any ideas on how we could improve the current system.

Statutory consultation

In order to move responsibility for CHPs and DPPP to ORR, modifications to licences and SNRPs are required. These are set out in Annex A and its accompanying schedules.

Annex A is a statutory notice we have to issue to make proposed modifications to licences under section 12(2) of the Railways Act 1993 and SNRPs under regulation 13(2) of the Railway (Licensing of Railway Undertakings) Regulations 2005. We are seeking consent from the licence and SNRP holders (listed in schedule 1) to make the modifications.

Please provide a response by **2 August 2013**. If we do not hear from you we will assume you are content with our proposal. Details about who to send it to are in the Annex.

Changes to the licences and SNRPs will then be implemented by the end of September 2013.

If you have any questions about this letter or would like to meet and discuss any element of the proposals with us please contact Mute Mowoe on 0207 282 2148, or by email at okiemute.mowoe@orr.gsi.gov.uk.

Yours faithfully

Annette Egginton

Notice under section 12(2) of the Railways Act 1993 (the Act) and regulation 13(2) of the Railway (Licensing of Railway Undertakings) Regulations 2005 (the Regulations)

1. This notice concerns the licences granted under section 8 of the Act and Statements of National Regulatory Provisions (SNRPs) granted under regulation 10 of the Regulations, to the holders listed at schedule 1 to this notice.
2. The Office of Rail Regulation (ORR) hereby gives notice, pursuant to section 12(2) of the Act and regulation 13(2) of the Regulations, of its proposal to modify the conditions of the licences and SNRPs of those holders listed in schedule 1 in accordance with schedule 2 of this notice.
3. The effect of these proposed modifications is to transfer from the Department for Transport to ORR responsibility for approving and monitoring the passenger complaints handling procedures and disabled people's protection policies of the licence and SNRP holders' listed in schedule 1.
4. This transfer will therefore bring the approval and enforcement functions together in one place. It will also achieve valuable synergy with ORR's existing responsibility for regulating the accessibility of rail vehicles and the technical standards for meeting the needs of people with reduced mobility, giving ORR a broader insight into how the industry is performing in respect of this group of passengers.
5. Any representations or objections to the proposed modifications should be made in writing before 5pm on 2 August 2013. Please send any comments on this proposal to:

**Mute Mowoe
Licensing and Network Regulation Team
Office of Rail Regulation
One Kemble Street
London
WC2B 4AN**

licensing.enquiries@orr.gsi.gov.uk

6. Copies of this notice will be published on the ORR website (www.rail-reg.gov.uk).

Schedule 1 – Licence and SNRP holders affected by this notice

The licences granted under section 8 of the Act, and SNRPs granted under regulation 10 of the Regulations, subject to this notice, with reference numbers, are:

Passenger train and passenger SNRP holders

Abellio Greater Anglia Limited

- [GB passenger SNRP](#) UK 02 2012 0001

Arriva Trains Wales Limited

- [GB passenger SNRP](#) UK 02 2005 0011

c2c rail Limited

- [GB passenger SNRP](#) UK 02 2005 0015

The Chiltern Railway Company Limited

- [GB Passenger SNRP](#) UK 02 2005 0019

DB Regio Tyne and Wear Limited

- [Passenger train licence](#) UK 03 2010 0001

Direct Rail Services Limited

- [GB passenger SNRP](#) UK 02 2005 0024

East Coast Main Line Company Limited

- [GB passenger SNRP](#) UK 02 2006 0006

East Midlands Trains Limited

- [GB passenger SNRP](#) UK 02 2007 0009

Eurostar International Limited

- [GB passenger SNRP](#) UK 02 2005 0027

First Capital Connect Limited

- [GB passenger SNRP](#) UK 02 2006 0004

First Greater Western Limited

- [GB passenger SNRP](#) UK 02 2006 0002

First Scotrail Limited

- [GB passenger SNRP](#) UK 02 2005 0035

First/Keolis Transpennine Limited

- [GB passenger SNRP](#) UK 02 2005 0039

GB Railfreight Limited

- [GB passenger SNRP](#) UK 02 2009 0001

Golding's Rail Limited

- [GB passenger SNRP](#) UK 02 2006 0008

Grand Central Railway Company Limited

- [GB passenger SNRP](#) UK 02 2007 0003

Hay's Rail Limited

- [GB passenger SNRP](#) UK 02 2006 0009

Heathrow Express Operating Co Limited

- [Passenger train licence](#) UK 03 1997 0001

Hull Trains Company Limited

- [GB passenger SNRP](#) UK 02 2005 0055

London and Birmingham Railway Limited

- [GB passenger SNRP](#) UK 02 2007 0011

London and South Eastern Railway Limited

- [GB passenger SNRP](#) UK 02 2006 0003

London Overground Rail Operations Limited

- [GB passenger licence](#) UK 02 2007 0012

London Underground Limited

- [Passenger train licence](#) UK 03 2004 0008

Merseyrail Electrics 2002 Limited

- [Passenger train licence](#) UK 03 2003 0011

North Yorkshire Moors Railway Enterprises plc

- [Passenger train licence](#) UK 03 2007 0002

Northern Rail Limited

- [GB passenger SNRP](#) UK 02 2005 0067

OQS Rail Limited

- [GB passenger SNRP](#) UK 02 2006 0010

Orchard Rail Limited

- [GB passenger SNRP](#) UK 02 2006 0011

Pre Metro Operations Limited

- [Passenger train licence](#) UK 03 2003 0004

Rail Express Systems Limited

- [GB passenger SNRP](#) UK 02 2005 0071

Rail for London Limited

- [GB passenger SNRP](#) UK 02 2007 0008

SOLR1 Limited

- [GB passenger SNRP](#) UK 02 2007 0006

SOLR2 Limited

- [GB passenger SNRP](#) UK 02 2007 0007

Southern Railway Limited

- [GB passenger SNRP](#) UK 02 2009 0002

Stagecoach South Western Trains Limited

- [GB passenger SNRP](#) UK 02 2007 0001

Strutton Rail Limited

- [GB passenger SNRP](#) UK 02 2006 0012

Tyne & Wear Passenger Transport Executive

- [Passenger train licence](#) UK 03 2002 0002

West Coast Main Line Company Limited

- [GB passenger SNRP](#) UK 02 2006 0007

West Coast Railway Company Limited

- [GB passenger SNRP](#) UK 02 2005 0079

West Coast Trains Limited

- [GB passenger SNRP](#) UK 02 2005 0083

Westminster Rail Limited

- [GB passenger SNRP](#) UK 02 2006 0013

XC Trains Limited

- [GB passenger SNRP](#) UK 02 2007 0010

Station licence holders

Abellio Greater Anglia Limited

- [Station licence](#) UK 03 2012 0001
- [Station licence for Stratford Regional station](#) UK 03 2012 0003

Arriva Trains Wales Limited

- [Station licence](#) UK 03 2003 0016

c2c rail Limited

- [Station licence](#) UK 03 1994 0007

The Chiltern Railway Company Limited (formerly Chiltern Railways Company Limited)

- [Station licence](#) UK 03 1995 0015

DB Regio Tyne and Wear Limited

- [Station licence](#) UK 03 2010 0002

East Coast Main Line Company Limited (formerly Abbey Rail Limited)

- [Station licence](#) UK 03 2009 0004

East Midlands Trains Limited

- [Station licence](#) UK 03 2007 0019

Eurostar International Limited (formerly Eurostar (UK) Limited)

- [Station licence](#) UK 03 1994 0001

First Capital Connect Limited

- [Station licence](#) UK 03 2006 0008

First Greater Western Limited

- [Station licence](#) UK 03 2006 0002

First ScotRail Limited

- [Station licence](#) UK 03 2004 0012

First/Keolis Transpennine Limited

- [Station licence](#) UK 03 2004 0002

Glasgow Prestwick International Airport Limited

- [Station licence](#) UK 03 1994 0006

London and Birmingham Railway Limited

- [Station licence](#) UK 03 2007 0023

London and South Eastern Railway Limited

- [Station licence](#) UK 03 2006 0005

London Overground Rail Operations Limited

- [Station licence](#) UK 03 2007 0026

London Underground Limited

- [Station licence](#) UK 03 2004 0009

Merseyrail Electrics 2002 Limited

- [Station licence](#) UK 03 2003 0013
- [Liverpool South Parkway station licence](#) UK 03 2005 0086

Network Rail Infrastructure Limited

- [Station licence](#) UK 03 1994 0004

Northern Rail Limited

- [Station licence](#) UK 03 2004 0016

Rail for London Limited

- [Station licence](#) UK 03 2007 0017

Southern Railway Limited

- [Station licence](#) UK 03 2009 01

Stagecoach South Western Trains Limited

- [Station licence](#) UK 03 2007 0004

Stobart Rail Limited

- [Station licence](#) UK 03 2011 0001

Tyne & Wear Passenger Transport Executive

- [Station licence](#) UK 03 2002 0003

West Coast Trains Limited (trading name: Virgin Trains) UK 03 1995 0013

- [Station licence](#)

Schedule 2 - Proposed modifications to licence and SNRP conditions

For Network Rail Infrastructure Limited the conditions affected are 4 and 5. The wording in its station licence is bespoke. The proposed modifications are to replace 'Secretary of State' with 'ORR' throughout these two conditions, with the exception of the reference to the Secretary of State in condition 4.2 - publishing the code of practice.

For all other licence and SNRP holders listed in Schedule 1, this schedule contains the proposed modifications to the conditions for CHPs (condition 5) and DPPP (condition 6) to replace the current CHP and DPPP conditions. The proposed modifications to the SNRP conditions are identical but with the term 'licence' replaced with 'SNRP'.

Condition 5: Disabled People's Protection Policies

1. The licence holder shall by the date on which this licence comes into force establish and thereafter comply with:
 - (a) a statement of policy; and
 - (b) a detailed body of arrangements, procedures, services and other benefits to be implemented or provided by the licence holder,

designed to protect the interests of people who are disabled in their use of trains of which the licence holder is the operator pursuant to this licence and to facilitate such use (together the "disabled people's protection policy").
2. In establishing the disabled people's protection policy and in making any alteration to it, the licence holder shall have due regard to the code of practice published by the Secretary of State pursuant to section 71B of the Act and to articles 19 and 20(1) of the PRO Regulation [article 19(1) for station licences].
3. The licence holder shall not establish, or make any material alteration (save in respect of any alteration required in paragraph 4(b)), to the disabled people's protection policy unless and until:
 - (a) the PC and, where appropriate, LTUC has been consulted; and
 - (b) the licence holder has submitted the disabled people's protection policy, or (as the case may be) the proposed alteration, to ORR and ORR has approved it.
4. Where ORR requires the licence holder to carry out a review of the disabled people's protection policy or any part of it or the manner in which it has been

implemented, with a view to determining whether any alteration should be made to it, the licence holder shall:

- (a) promptly carry out a review and shall submit a written report to ORR setting out the results or conclusions; and
- (b) make such alterations to the disabled people's protection policy, or the manner in which it is implemented, as ORR may reasonably require after ORR has received a report under paragraph 4(a) and consulted the licence holder, the PC and, where appropriate, LTUC.

5. The licence holder shall:

- (a) send a copy of the disabled people's protection policy and of any alteration to it to ORR and the PC and, where appropriate, LTUC;
- (b) in a place of reasonable prominence at each station at which trains of which the licence holder is the operator pursuant to this licence are scheduled to call, display or procure the display of a notice giving the address from which a current copy of the statement may be obtained; and
- (c) make available free of charge a current copy of the statement to any person who requests it.

6. Nothing in this condition shall oblige the licence holder to undertake any action that entails excessive cost, taking into account all the circumstances including the nature and scale of licensed activities.

Condition 6: Complaints Handling

- 1. The licence holder shall by the date on which this licence comes into force establish and thereafter comply with a procedure for handling complaints relating to licensed activities from its customers and potential customers (the "Complaints Procedure").
- 2. The licence holder shall not establish, or make any material alteration (save in respect of any alteration required in paragraph 3(b)), to the Complaints Procedure unless and until:
 - (a) the PC and, where appropriate, LTUC has been consulted; and
 - (b) the licence holder has submitted the Complaints Procedure, or (as the case may be) the proposed alteration, to ORR and ORR has approved it.

3. Where ORR requires the licence holder to carry out a review of the Complaints Procedure or any part of it or the manner in which it has been implemented, with a view to determining whether any alteration should be made to it, the licence holder shall:
 - (a) promptly carry out a review and shall submit a written report to ORR setting out the results or conclusions; and
 - (b) make such alterations to the Complaints Procedure, or the manner in which it is implemented, as ORR may reasonably require after ORR has received a report under paragraph 3(a) and consulted the licence holder, the PC and, where appropriate, LTUC.

4. The licence holder shall:
 - (a) send a copy of the Complaints Procedure and of any alteration to it to ORR and the PC and, where appropriate, LTUC;
 - (b) in a place of reasonable prominence at each station at which trains of which the licence holder is the operator pursuant to this licence are scheduled to call, display or procure the display of a notice giving the address from which a current copy of the Complaints Procedure may be obtained; and
 - (c) make available free of charge a current copy of the Complaints Procedure to any person who requests it.