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Dear Abigail

Amending licences to give passengers the information they need to plan and make journeys - Network Rail's response to the consultation issued by the Office of Rail Regulation

Network Rail welcomes the opportunity to respond to the consultation issued by the Office of Rail Regulation ('ORR') on 29 March 2011 that sets out proposals to extend licence obligations for the provision of information to passengers. We can confirm that no part of our response is confidential and we are content for it to be published in full.

1. General Response and Commentary

We recognise the need to continue to improve in this important area and that this issue remains a passenger priority. Enabling the provision of information to passengers and others is a key service that we want to provide to our customers. As an area undergoing rapid development and change as technology advances and passenger expectations increase, we believe that the proposed licence changes are relevant and appropriate.

In responding to this consultation Network Rail does so in the context of the ongoing dialogue at Rail Delivery Group (RDG) and its planned meeting with ORR to discuss the issue of passenger information.

Network Rail is continuing to discuss the best way of addressing passenger and funder concerns in this area with operators and ATOC. There is already a considerable amount of work going on in "upstream" processes and accountabilities and this is reviewed regularly by the National Task Force (NTF). There is considerable common ground but there are also some differences of opinion.

Network Rail strongly supports the view that RDG should take ownership of the way forward and develop a plan for improving passenger information. We recognise that Network Rail has an important role to play in this area but that we cannot address this issue alone. We also recognise that providing information freely to the market can be expected to result in greater innovation in the way this information is provided to passengers.



In principle, we consider that there are benefits from having a single regulator for all parts of the industry, particularly on issues where there is a need for strong integration across the whole railway system. In addition, we believe that any licence requirements in this area should, be clearly focussed on the ultimate purpose of providing passenger information in a cost-effective way. They should not, for example, lock-in current processes, especially where the industry is committed to change, and should support innovation.

We believe that any changes in the regulatory regime should be deferred until the industry has developed a clear plan that will deliver the necessary improvements. We recognise that if ORR agrees to this proposal, this will place a clear responsibility on the industry parties and RDG to develop a plan in the coming months which addresses passenger and funder requirements in a cost-effective manner.

2. Specific Responses to ORR Questions.

Do you agree that there is a lack of clear accountability in the current framework for providing information to passengers?

We agree that the current framework for providing information to passengers has not clearly defined the accountabilities of different industry stakeholders. Different industry parties hold different accountabilities for preparing data and for communicating information to passengers. We believe that accountabilities must be based on a clear understanding of the processes needed to provide accurate and timely information to passengers. There is also a need to improve how the industry coordinates the different roles involved in the provision of passenger information.

We also believe that this lack of clear accountability for providing information to passengers does not solely relate to times of disruption, but applies more generally to the provision of passenger information. We therefore welcome the proposal to make these accountabilities clearer.

Network Rail is working with train operators through the National Task Force and ATOC led Passenger Information Strategy Group meeting to provide greater accountability. We are also engaged with ATOC's work on the development of Customer Information Strategy for the Initial Industry Plan which should aid greater clarity of accountability for actions to improve passenger information.

Do you agree that licences are the best place to set out aligned responsibilities for providing information?

The provision of information to passengers requires Network Rail and train operators to work together to create and disseminate that information. We believe that if the accountabilities are to be delivered clearly then the process of creating passenger information requires some form of regulatory oversight for all the parties involved. We therefore believe that ORR has a role to play as a sector regulator.

We agree that licences are the best place to set out high-level purposive accountabilities as licence obligations are enforceable and therefore mean that the licence holder can be held to account if it fails to comply with its licence obligations. However, whilst the proposed licence obligations will help to clarify a holder's accountabilities we believe that it is also important to consider how these accountabilities will be given effect and are aligned across the industry. The proposed new licence obligations do not necessarily provide a mechanism for this or require that the holder work with other licence holders.

As the licences should only set out the general purpose as regards what is expected of the licence holder, we believe that it is important that further work is carried out by Network Rail and train operators to consider how the proposed obligations will be implemented by the industry in a consistent way – so as to deliver the end-user benefits that the proposed changes to the regulatory regime aim to achieve.

In this regard the newly formed RDG has identified passenger information as one of its priorities and is due to meet with ORR shortly to discuss the issue and the proposed licence obligations. RDG will develop a plan for improving the industry's performance in this area and we propose that amendment of licences should pragmatically be deferred until that plan is in place and being delivered. In addition representatives of the National Task Force, including Network Rail, and National Rail Enquiries are meeting this week to review the progress and issues with current initiatives in this area.

The drafting and implementation of any licence changes needs to mitigate against the locking in of any particular process, solution or technologies. Industry parties need to be able to continue to innovate and be able to demonstrate competitive advantage in the services they offer. Licences and associated enforcement policy should require or enable the industry to develop the best way of meeting the need for accurate, timely and consistent passenger information.

We agree that the proposed amendments should be drafted in such a way so as not to duplicate train operator franchise obligations (as already noted within the consultation document).

Do you agree the split of responsibilities described is sensible?

The split of responsibilities described in the consultation reflects the view that we have taken throughout our work on Passenger Information During Disruption ("PIDD") and Customer or Passenger Information Systems ("CIS") in general.

We recognise that as a station operator (for our managed stations) we have an important obligation to cooperate with train operators to enable them to meet their obligations to provide information to passengers. We also agree that there should be a mutual obligation in train operator licences for the provision of information to intermediaries.

Are there any other changes in the way the industry handles information for passengers that would complement new licence obligations and help the industry deliver the needed improvements?

Information should be readily available to all that require it. We do not envisage that access to certain types of information should be necessarily free of charge; but any charges which are applied must be cost orientated, to encourage greater accessibility for all interested parties. Making information more widely available should also promote the development of new and innovative methods for passenger communication.

It is important to note the difference between preparing accurate information and its dissemination via a variety of channels and media. The wider communications sector, such as internet and mobile phone application providers, could perhaps play a bigger role during times of disruption. We would urge the industry as a whole to consider new ways of working with this sector to aid more efficient dissemination of information to passengers.

The industry also needs to consider more generally the ways in which it can fund new technologies for the provision of information in the future. We believe that this issue warrants further discussion as part of the CP5 deliberations.

The new licence obligations cannot take into account the 'human factor'; that is, the differing levels of train operator and Network Rail staff engagement, particularly on the ground for reporting from site investigations and repairs and management of passenger information at stations.

It is important for station staff to communicate effectively with each other, particularly during times of disruption. To this end we continue to work toward agreeing and implementing a communications protocol with train operators for use at each of our managed stations during times of disruption. This should encourage a mutual flow of information between Network Rail and train operator staff; so that all station staff are fully equipped to inform passengers during times of disruption and recognise that their role in doing so may change as disruption becomes more material.

Do you have any suggestions to improve the proposed licence drafting?

Some detailed comments on the proposed drafting of Network Rail's network licence are set out in Appendix A.

We also believe that an emphasis could be placed on train operators also working to 'best practice' in terms of their obligations, just as Network Rail is required to under the terms of Conditions 1 and 2 of its licence. It would seem sensible that as the industry as a whole should work in accordance with best practice, similar wording could be incorporated into Condition 4 of the train operator licence.

Who do you think should be covered by these proposals?

All franchised and open access operators, and station licence holders should be covered by these proposals. We also wish to clarify whether the licences held by London Underground Limited, Heathrow Express Operating Company Limited (both granted by the Secretary of State) and Eurostar International Limited are also covered by these proposals, given the interface of their operations with national rail passengers.

What impact do you think these proposals would have?

We would hope that these proposals would have a positive impact on the provision of information to passengers. The extended licence obligations for the mutual sharing of information will be essential for the implementation of coherent and co-ordinated processes. Notwithstanding this, the ultimate success of the proposals will be dependent on all affected parties complying with the obligations.

ORR's role in monitoring compliance with and enforcing the new licence obligations needs to be targeted and focused, enabling the industry to collectively develop the most practical methods for information provision.

What extra information about how these conditions would work in practice would be useful?

We believe that new sources of information or the need to share existing information and use it in new ways will emerge as the industry implements new information systems, or as a result of future railway research projects. As such, we believe it is important that the licence obligations are drafted in a purposive and 'technology neutral' way. An example of likely evolution is the probable role that Network Rail's Traffic Management technology will have in providing the comprehensive raw data for information systems.

Similarly, we believe that there is a continuing trend to empower consumers to select the information they require in a form, channel and time of their choice. The use of smartphones and PDAs and their numerous applications is testament to this. The industry should support this continuing trend and the licence obligations and their application should be judged in this context. Traditional CIS arrangements have their role but over-reliance upon them would be unhelpful in taking forward the service offer of rail passenger services.

We would be happy to meet with ORR to discuss any of the comments raised in this consultation response in more detail. I am copying this letter to Paul Plummer, Robin Gisby and Jon Haskins here at Network Rail and Alec McTavish at ATOC.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Mike Goggin', with a long horizontal flourish extending to the right.

Mike Goggin

Director, Stations and Customer Service

Appendix A - Drafting of Network Rail's Network Licence

2.6 (1) We believe that the drafting of this condition should reflect the purpose as outlined under condition 1.1 (network management). We suggest that the condition should read as follows:

- 1) any renewal, maintenance, replacement, improvement, enhancement and development of the network;

2.9 The proposed wording '[and actual]' should not be retained. The benefit of this inclusion is not entirely clear, given that actual train movement information would not be available until after the event, and would therefore be of limited use to an enquiry service. Collating this type of information for enquiry services may also have cost implications.