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28th February 2013

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Dean John,

Real Time Train Information – a consultation by ORR on the findings from its review

Thank you for giving TfL the opportunity to comment on this important consultation.

We believe that only a total liberalisation of transport information, whether held by National Rail Enquiries or others, is sufficient in order to deliver improved information services for the customers who pay for transport through fares and taxes.

This openness should only be subject to conditions covering potential security/fraud, unreasonable use of capacity and the infringement of intellectual property rights.

In our opinion, anything less will continue to stifle competitive and innovation in information provision and prevent the market from helping to deliver that information in the way that best suits customers and business.

The remainder of this letter sets out our views on the specific questions raised in your consultation on the findings from your review of Real Time Train Information. We are content for the contents of this response to be published.

Consultation Question 1: We are looking for stakeholder comments on NRE's proposed changes to its Code and where changes have not been made, comments on NRE's reasoning.

We think that it would be best to move towards an open access policy for the supply of real time information. Any checks required should be minimised and

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focused on potential security issues/fraud risks, the unreasonable use of capacity and the infringement of intellectual property rights. This will maximise the potential supply of useful applications to the public and businesses as well as minimising the bureaucracy and cost associated with bringing applications to market.

Purpose of the code

We agree that the decision to withdraw the **additional benefit** test is appropriate. There does not appear to be any rationale for this test, as any application using the information provided would have to deliver benefits to customers otherwise it would not sell.

We disagree with the decision not to remove or alter the **material adverse impact** test.

The scope of this test is drawn very widely to include financial, strategic, operational and reputational issues and could be used to stop a wide variety of applications that could be of use to customers and businesses. For example, an application could notify customers when they are due a refund as a result of service disruption, increasing operator costs and creating a *material adverse impact* on the operator concerned despite the benefits this would bring to customers and businesses. The interests of the customers should be at the heart of the Code yet the material adverse impact test puts the interests of the rail industry ahead of those of the customer. We think that this test should be removed, and replaced with checks to ensure the following:

- The proposed application(s) do not represent a risk to the security of the service;

- The proposed application(s) do not use an unreasonable amount of capacity;

- The proposed application(s) do not infringe the intellectual property rights of the operator(s) supplying the data.

We believe that the **reputable company** test should be limited to checking that the company has not been involved in fraudulent activity adversely affecting any part of National Rail previously. Other restrictions are not relevant and could restrict access to the data available on an unreasonable basis, for example to amateur developers of applications.

How to use the code

The proposals for a right of appeal to an independent arbitrator again demonstrate the simplicity and value of pursuing an open access data policy. This would generate far fewer grounds for dispute and reduce costs in line

with wider industry objectives.

Commitments and guidelines

We note your finding that many third parties regard the licensing and charging process as slow, cumbersome and inflexible. This demonstrates that the approach currently being taken is acting to constrain the development of applications of use to the public and businesses, which is unreasonable given the degree of public subsidy that the rail industry receives. Whilst we welcome proposals to simplify the licensing process, we continue to consider that a policy of open access to data (with appropriate checks as discussed above) presents the best way forward for the rail industry. This will help extend the reach of real-time information, offering major benefits to customers and operators alike.

Consultation Question 2: We are looking for stakeholder comments on the extent to which Network Rail's data feed represents a viable alternative to Darwin and the uses that these feeds can be put to.

Network Rail's adoption of an open data policy is extremely welcome. The quality of their feeds can be progressively improved over time through cooperation with other operators, including us, to deliver an alternative to Darwin that could then be used to promote the rapid development of applications for customers. The ORR could use Clause 10 in the TOC licences to facilitate this approach by requiring operators to work with Network Rail to improve the quality of real time information held by Network Rail and made available under its open data policy. The start of the new Control Period in April 2014 provides an ideal opportunity to adopt this approach.

NRE have recently offered to make more of their information on service disruption available via our own systems. This is welcome. However, this offer was made with various terms and conditions attached which, given our open data policy, we cannot accept. For example, restrictions are placed on advertising on the host website and we are prevented from syndicating the disruption information to other parties. We provide data to NRE on an open access basis with no such terms and conditions.

It is also important that the rail industry focuses on the quality of the information it provides as well as its distribution. The value of real time information is often limited by the systems used for its collection; these can be very coarse. This is an area where Network Rail might take a leading role in delivering improvements during the next Control Period. Effective regulatory oversight will ensure that good progress is made.

One example of the coarseness of current real time information systems is provided by the CCIL system that Network Rail has recently been trialling with various operators, including London Underground. This allows all parties

to record incidents and the progress made towards their resolution. All parties can view the system and use it to provide updates to affected customers. Unfortunately the value of the system is often limited by the minimal information that is normally input. This can be as little as a record of the start and conclusion of the incident, with no reference being made to, for example, its operational impact or expected duration. A greater commitment by all parts of the rail industry to provide more comprehensive updates to all real time information systems would be very welcome to ensure that customers are kept fully aware of the status of the network and the expected duration of any incidents that have occurred.

Consultation Question 3: We are interested to hear consultees' views on the evidence that we present in Chapter 5 on the number of new licences and applications, and on any reasons why they consider this growth might overstate the health of this market. In particular we welcome stakeholder views on:
(a) The medium-term sustainability (to the extent that this is possible to predict in a fast-moving technology market) of the relatively large number of applications that are currently on the market, including on the feasibility of paid and ad-funded or free-to-download applications coexisting; and
(b) The likelihood of a significantly better range of applications and functionality being made available under a more open data standard.

We think that the market issues raised in point (a) above are of no real concern to the rail industry. There will clearly be an ongoing demand for real time information and the industry needs to meet this demand in the most efficient and effective manner possible. Third party developers will be able to determine the best way to deliver the information to market.

There is clear evidence that a significantly better range of applications and functionality will be made available under an open data standard. This is substantiated by the examples quoted in the consultation document. Some 148 licences to use Darwin had been granted by October 2012. In July 2012, there were 3,768 registered users of TfL's open datasets. By February 2013, this had grown to a total of 5,106 registered users.

The difference in volume is marked, and demonstrates the greater degree of interest in and use of information provided on an open basis, leading to extended reach of information, diversity, competition and choice to customers and businesses. For example, there are several hundred London Tube related applications on the Google Play store alone for example. We know from developers that, on their own, some of them have delivered several million downloads and have over 1 million active users. We are aware there are several developers of this scale, as well as many with a smaller following. This has significantly extended the reach of our information provision at the same time as hits to our website have also continued to grow. This also

demonstrates that this is not a zero sum game; liberalising information materially increases its reach.

It is also important to consider the value delivered to passengers. Applications built with TfL open data typically retail at under £1 (there are also many 'free' versions). According to your report, applications featuring NRE data typically retail at between £2.50 and £5. This discrepancy is likely to be driven by the charges levied by NRE for the data they supply and serves as a constraint on the purchase and use of applications containing NRE data, to the disadvantage of the customer.

Consultation Question 4: We ask consultees for views on whether an open data approach, if adopted, would lead to change in the market for RTTI products and services and if so: (a) what this change might look like; and (b) whether it would be desirable.

As discussed elsewhere in this consultation document we consider that an open data approach to the market would broaden the range and quality of applications available to customers and businesses. It would also significantly increase the reach of information, providing benefits to the rail industry at low cost. The example quoted in the consultation document concerning the applications developed for the Barclays Cycle Hire scheme provides further evidence of the value that such an approach would deliver.

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