

David Wearing
Track Access Executive
Office of Rail Regulation
One Kemble Street
London
WC2B 4AN

19 January 2012

Dear David,

**ALLIANCE RAIL HOLDINGS (ALLIANCE) SECTION 17 APPLICATION - GNWR
WEST COAST SERVICES**

This letter constitutes the Alliance response to Network Rail's representations made to the ORR on the 9th January 2012.

Network Rail and Alliance have worked closely together, developing a very good and productive working relationship, particularly with the Operations Planning team. The Alliance application is based on what was jointly agreed would be the worst case scenario in terms of available capacity.

We agreed with Network Rail that indicative capacity could be determined by identifying paths in the December 2011 timetable. Where trains clashed solutions were proposed using Network Rail's contractual flex. The scope of the analysis that Alliance and Network Rail focused on was Bradford to London (via the Calder Valley) and Leeds to London (via the North Trans Pennine). These routes were chosen as it was felt that these would be the most challenging in terms of identifying capacity. Bearing in mind that we set ourselves this tough challenge the output was impressive.

Network Rail produced a report for Alliance at the same time as it was also working on a timetable for the London Midland (LM) 30th Supplemental, (although this was unknown to Alliance at the time). The Alliance report largely supports the paths proposed by Alliance with 31 paths validated and agreed by Network Rail. A further 14 paths "*may be possible to identify [workable paths] as part of a more wholesale timetable redrawing*". Only 3 paths were rejected. It is clear this capacity can be bettered.

It should also be noted that the Alliance capacity analysis used the available contractual flex and the existing planning rules. The recent minded to decision by the ORR in relation to the LM 30th Supplemental is based upon the existing rules being broken.

Alliance and Network Rail had agreed to progress a Section 18 application for the rights that were deliverable within the existing planning rules. This was to enable Alliance to have rights for quantum to take part in the timetabling process. ORR agreed with this approach during our meeting in Spring 2011 and it formed part of our comprehensive consultation.

We note Network Rail's comment in paragraph 3 that "*Network Rail has recently undertaken detailed analysis of capacity on the WCML and across the Pennines to Leeds ... as part of the West Coast Event Steering Group (WCESG)*". This statement is incorrect. This capacity analysis has been undertaken independently of the WCESG. The first meeting of this group was on the 10th January this year. Since this report was produced Grand Central has withdrawn its aspirations to operate on the WCML. It should also be noted that this report has assumed existing paths continue rather than look at what capacity is available as part of a timetable recast.

Network Rail suggested that they would be able to progress a Section 18 application after the 19th December 2011. Network Rail was willing to progress a Section 18 application in full knowledge of points 1, 2 and 3. Network Rail subsequently changed their position to suggest they 'may be able to progress a Section 18 application' from they 'would be able' and so Alliance decided that it would be better to progress our application as a Section 17 in order to inform franchise bidders of our proposals and in view of Network Rail's inability to confirm its position within an acceptable time-frame.

In paragraph 7 (headed "The Section 17 application"), Network Rail refer the Alliance capacity analysis as "*initial capacity work*". This could be seen to imply that the work undertaken was less detailed than the 19th December capacity study. For clarity this is not the case. The capacity analysis carried out by Alliance and Network Rail involved compliance within the existing rules and within the existing contractual obligations between all operators. Considerable effort was made in making certain that the Alliance paths were compliant which led to them being validated.

It is not credible that the report produced on the 19th December had looked at using the existing contractual flex nor Network Rail's right to vary to full effect in anything like the same detail. In this respect the 19th December analysis is flawed. In addition the suggestion that the Alliance capacity analysis was carried out in isolation is disingenuous. The work carried out by Alliance was with the full knowledge of all operators over the route (as evidenced by consultation), and was very comprehensive. Indeed much of the work was shared with consultees. However, we now note that Network Rail was carrying out timetabling work for London Midland on their class 350 110 mph project at the same time. In this respect it is Network Rail and London Midland who have acted in isolation.

Re paragraph 9, the December 2011 timetable was used by Alliance and Network Rail as a base timetable, to identify the worst case scenario in terms of capacity. The report produced by Network Rail on the 19th December has simply applied all the aspirations on the existing December 2011 timetable without using the contractual flex and Network Rail's right to vary to full effect. For example Network Rail does not appear to have considered moving the existing services of the West Coast Franchise (which is what you would expect with a recast). Given that the ORR gave quantum only in the DfT WCT contract and that the ORR is taking the approach that operators rights should have less specificity, it seems a pointless exercise if Network Rail is not willing to use its flex to recast the timetable.

Alliance also notes that Network Rail was asked to review the timetable planning rules on the WCML by the ORR and that the capacity report has also failed to take this into account. Network Rail states that it *"does not believe that the total quantum requested will be deliverable"*. Alliance would argue that the approach taken by Network Rail (to model the impact on the base timetable of the new aspirations) was clearly flawed. Network Rail has simply perpetuated the 'carve up' of the best paths to the existing operators. This could have been avoided if the remit for the timetable capacity study had been agreed by the WCESG.

Re paragraph 10, Network Rail stated that *"Alliance has indicated in the application that they believe Network Rail withdrew support for their Section 18 application. If that was the impression we gave it was not intended"*. On the 1st November 2011 Paul Plummer stated by email *"I thought it was important for me to come back formally to you [Alliance] and confirm that we are not presently in a position to agree to a Section 18"*. It needs no further explanation.

You will see from this response that Alliance is disappointed from the changed position and the response from Network Rail. However, we also note that capacity for the Alliance services does exist even in the existing base timetable. We will continue to work positively with Network Rail in the expectation that it can actually recast the timetable in accordance with timetable planning rules and using contractual rights to full effect. If this can be done it would be a first for the industry and long overdue.

Yours sincerely,



Ian Yeoward
Managing Director