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Stations & Depots Team  
Office of Rail Regulation  
One Kemble Street  
London  
WC2B 4AN

8<sup>th</sup> June 2011

Dear Sirs

### **Consultation on Changes to the Station Access Conditions and Independent Station Access Conditions**

Southern welcomes the opportunity to respond on the proposed changes to the Station Access Conditions and Independent Station Access Conditions.

Overall we note that the new definitions are helpful and the separation of the compensation element from the station change is a positive change. The four levels/types of change introduce clarity and the introduction of the Exempt Activity and Notifiable Change would help ease the process for changes of a minor nature.

We have concerns with the drafting as proposed as it is unclear as to when a station change can be implemented. We believe that the intention is that a change should be registered and then implemented (registration requiring a full set of documentation, including the co-operation agreement). If this is not the case, TOCs would be at risk as station changes could be implemented without full documentation, especially the Co-operation Agreement, being in place. The specific concern is set out in our response under 6.12.

We do have further concerns over the limited grounds to object to a change and this is mentioned in the response under 6.13 and also the deletion of the Network Rail indemnity clause.

In response to part 6, List of questions, our responses are as follows:

- 6.5 We agree to the retention of a voting process for changes to the national template SACs and agree that the 80% threshold for approving a change proposal is appropriate.  
We agree to the deletion of the need to hold Station Meetings (as currently defined).
- 6.7 We agree that £5,000 is the correct threshold in the definition of "Financial Impact Test" for assessing materiality.

We would not favour an alternative practical method of assessing materiality.

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- 6.8 We do not feel it appropriate to allow operators to make representations (or even objections) in relation to an Exempt Activity, and/or to receive compensation in relation to the same as this defeats the object of having the Exempt Activity. What would be more beneficial is to be able to challenge a proposal if consultees felt that it was outside the definition of an Exempt Activity.

We would benefit from Network Rail producing guidance in relation to what is covered by its proposed definition of “Exempt Activity” as the definition is not very clear and more detail would be beneficial.

- 6.12 The direct contracting with third party developers is not satisfactory as currently drafted as it would depend on them behaving like an access party. There isn’t anything which forces the third party developer into a Co-operation Agreement – they have to provide a financial undertaking however there is no link between that and entering into the agreement.

The distinction between the type of developer who can qualify as a Specific and Strategic Contributor is appropriate.

We feel that the proposed qualification threshold for a Specific Contributor at £50,000 is too low as this could capture tenant investment and schemes which would not benefit the station in the long-term. The threshold would be more realistic at £150,000 plus.

- 6.13 We are concerned over the limited grounds for making a valid objection and think that the grounds for objection as set out as provided in the extract in the consultation document from the Stations Code as set out in Annex A to Appendix 5 should be incorporated into the SACs (with the exception of those relating to compensation). Part C paragraph 4.7.1 (grounds for objection due to a Material Change Proposal being incomplete or inaccurate) needs to be clarified and needs to be more specific as a consultee should be able to give a clearer reason as set out in the Stations Code for an objection.

The separation of financial compensation (and the provision of alternative accommodation) from the list of valid objections is appropriate.

- 6.16 Station Changes should be registered with the ORR but we would like to see a timescale on the approval being received from the date of submission. An online registration system would be helpful in registering Station Changes in terms of making the process easier and to assist with timescales.

We agree that registered Station Changes cease to be effective if not implemented within a set period after registration (or from the date the Proposal has been approved as there could be a lapse before registering) we suggest a period of 3 years.

- 6.22 We believe that the alternative ways of compensating Material Change Consultees is sufficient. We don’t feel the addition of interest is appropriate where part of a fixed sum is to be returned by a consultee because a Material Change.

Regarding provisions for reinstating the original position, this would depend on the project. There should be provision so that the contractor cannot leave the project part-finished so that it would compromise the operation of the station. If part of a project was completed which did not compromise the running of the station, this would be a better position than reinstating the original position (and more cost friendly).

6.26 We feel that the terms for the provision of alternative accommodation are sufficient.

6.28 We have no comments on the proposed additional modifications.

Yours faithfully

A handwritten signature in blue ink, consisting of several overlapping loops and a long horizontal stroke extending to the right.

Kai Hills  
Head of Franchise & Access Contracts