

Rob Plaskitt
Head of Licensing and Network Regulation
Telephone 020 7282 2072
Fax 020 7282 2042
E-mail rob.plaskitt@orr.gsi.gov.uk



28 March 2012

Company Secretary
Network Rail Infrastructure Limited
Kings Place
90 York Way
London
N1 9AG

ORR consent under network licence condition 5

1. On 27 March 2012, Network Rail Infrastructure Limited (Network Rail) asked us to consent, under condition 5.1 of its network licence, to its proposed involvement in rolling stock arrangements under the Wessex Alliance - the alliance between Network Rail and Stagecoach South Western Trains (SSWT) in relation to the Wessex Route.
2. Network Rail expects to become involved in the management of rolling stock as part of its activities under the alliance, running from 1 April 2012 until the end of SSWT's franchise (expected to be in February 2017). This would involve Network Rail having a management role over the companies' combined work portfolios, including the operation of rolling stock. Further, as Network Rail and SSWT would share any financial gains or losses as a result of operating the alliance, Network Rail would have an indirect financial interest in rolling stock.
3. Network licence condition 5 was designed to prohibit the network operator from becoming involved in train operations without consent; to avoid unfair train service competition between the network operator and other train operators. However, we note that the objective of Network Rail forming alliances with train operators is not to distort competition in train services, but to deliver benefits - not only for the parties involved - but also for rail users and taxpayers. We support those aims and we have set out our views on alliances in our policy statement of March 2012¹. Further, we understand that the Wessex Alliance is not a new legal entity, does not amount to vertical integration and leaves each party's current regulatory and legal obligations (including those around separation) as the clear responsibility of that relevant party.
4. We therefore support in principle Network Rail's proposal of 27 March 2012. However, it is important that the alliance operates in practice as we and other industry parties expect it to. New ways of working should be transparent to third parties so we expect Network Rail to make its arrangements clear to others, including the mechanisms

¹ www.rail-reg.gov.uk/server/show/ConWebDoc.10854



you have proposed by which other train operators on the route can review how it is affecting them and raise any concerns. It is also possible that Network Rail's exact role in relation to train operations within the Wessex Alliance may change over time so we limit the duration of this consent to 31 March 2014. At that time we will consider extending or renewing it with appropriate changes. In the meantime we will monitor how the Wessex Alliance operates in practice.

5. On the basis of the information Network Rail provided to us on 27 March 2012 and from supplementary clarifying information we have received, and having had regard to our duties under section 4 of the Railways Act 1993, in particular our duty to protect the interests of users of railway services, we consent for the purposes of condition 5.1 of the network licence to Network Rail entering into the arrangement it described.

6. This consent is valid from 1 April 2012 until 31 March 2014, or such longer period as we may specify in a notice given to Network Rail.

7. We may modify or revoke this consent at any time if we issue a new consent of a similar type to this consent, or if it appears to us requisite or expedient to do so, having regard to the duties imposed on us by section 4 of the Railways Act.

A handwritten signature in black ink, appearing to read 'Robert M Plaskitt', with a stylized flourish at the end.

Rob Plaskitt