

John Larkinson
Director, Railway Markets & Economics

Mark Carne
Chief Executive
Network Rail

27 July 2018

Dear Mark

Breach of timetabling conditions in Network Rail's network licence

1. I am writing to advise Network Rail of the decisions the ORR Board made this week following our investigation into your management of changes to the national rail timetable leading up to the May 2018 timetable change. We set out the scope of our investigation and initial findings in our letters of 25 May and 29 June 2018. Thank you for Network Rail's responses of 8 June and 6 July, which we have considered alongside other information from Network Rail, passenger and freight train operators, funders and passenger representatives.
2. The decisions and actions in this letter are summarised in the Annex.
3. ORR has concluded that Network Rail is breaching conditions 1.23 and 2.7 of its network licence in that it is failing to deliver to the greatest extent reasonably practicable, having regard to all the circumstances, its obligations to:
 - run an efficient and effective process, reflecting best practice, for establishing a timetable, and any changes to it, so as to enable persons providing railway services and other relevant persons, to plan their businesses with a reasonable degree of assurance and to meet their obligations to railway users; and
 - establish and maintain efficient and effective processes reflecting best practice and apply those processes so as to provide appropriate, accurate and timely information to train operators.
4. These are failings with significant consequences and when it became clear in January 2018 that the electrification of the Bolton Corridor would not be ready on

time, Network Rail had to re-write the May 2018 timetable 7 weeks after it was published in November 2017. This should not have been necessary.

5. This resulted in the serious breakdown in normal 'informed traveller' timescales under which Network Rail confirms short-term changes to the timetable to operators 12 weeks or more in advance (known as T-12). It also contributed to the major disruption faced by many passengers using GTR, Northern and other services since the May timetable was rewritten and implemented. The failed implementation of the new timetable in May 2018 is the subject of a separate inquiry we are carrying out at the request of the Secretary of State.
6. We will make a final order to remedy this licence breach. The order will include delivery of System Operator capability improvements and review of the timetabling process, as set out below. Given the complex circumstances of the breach we want to take account of the work that Network Rail and the wider industry are doing now and the findings of our separate inquiry. This means that we will consult Network Rail and the wider industry on the drafting of the final order to come into effect in the Autumn.
7. There are steps we require Network Rail to take now to increase its accountability and to provide us with greater assurance that it is managing the industry timetabling process as well as it can in the circumstances and building its timetabling resources and capability faster.

Immediate Actions

8. An immediate priority is the successful delivery of the December 2018 timetable. The decision has been taken to de-risk implementation of the December timetable and the following May 2019 timetable; we support this given recent experience. Our understanding of the proposed approach is that it should lead to a reduction in the quantum of change compared to that originally planned while still preserving the realisation of many passenger benefits (for example those brought about by the completion of enhancement projects). However this approach will not remove all risk to those timetables, and we want greater assurance. **We therefore require you to provide to us by 31 August 2018 an initial report demonstrating how you are running an efficient, effective, fair and transparent process for the December 2018 and May 2019 timetables.** This should highlight the risks to the process, including those around how the industry is working together. We will then seek train operator views on this periodically and we will publish our findings.
9. We understand the decision to de-risk the December 2018 timetable will mean it takes longer to recover normal T-12 timescales for notifying short-term changes to the timetable. To improve transparency and Network Rail's accountability **we require you to update your T-12 recovery plan by 31 August 2018, to**

publish your plan and to report publicly against it thereafter. This should include the number of late notice changes being considered and the reasons for those changes. We will continue to monitor progress against the recovery plan and your management of the risks to it through the arrangements we have already set up. We expect Network Rail to fully resource the plan, to continue to deliver it and to engage with the industry so that it plays its full part in the recovery, for example through the National Task Force and its subgroups.

10. During our investigation we found evidence that Network Rail's timetabling resources and capability were put under pressure by the increased scale of both short and long term planning changes. These issues continue; resourcing and capability of both Network Rail and industry planning teams is a risk to the delivery of future timetables.
11. Network Rail has started to recruit additional train planning resources and the System Operator's strategic business plan for the next 5-year control period starting in April 2019 proposed significant additional resources. This included funding for extra planning staff to support offering a more accurate and resilient timetable to the industry in a more effective and timely way, and around £60m of capital expenditure on enhanced systems that will enable improvements such as the automation of timetable processes.
12. In our draft determination we confirmed we support your plans to strengthen resources and capability in these and related areas. For example, enhancing the capability of your analytical teams to better support industry enhancement and franchise decisions. This support is subject to clarity around improved governance to secure value for money.
13. However, these plans are at an early stage of development. In light of the current timetabling problems, **we require you to accelerate your plans to strengthen your timetabling resources and capability, and to produce leading indicators to allow us to assess whether you are on course to deliver. We require you to provide us with a first draft of your proposals by 17 September 2018.** Once agreed with us, your plan must be published and we expect you to publically report on your progress against it.
14. Our investigation has also concluded that there are issues with the planning, management and delivery of Network Rail's Infrastructure Projects function and its interface with the System Operator timetabling function, and the routes. It is clear that decisions are not being taken with a whole system perspective in mind. These interfaces have been the subject of debate for some time. While we recognise that the new Chief Executive, Andrew Haines, will want to review this area, in light of the issues identified during our investigation, **we require Network Rail to speed up decisions about structural reform, providing us**

with a draft plan setting out how you will achieve this by 30 September 2018.

Content of the final order

15. Looking longer term, there are other actions Network Rail must take and which will be specified in the final order. Network Rail has acknowledged the timetabling process set out in Part D of the industry's Network Code is not working as envisaged and has proposed the industry should review these arrangements, particularly to strengthen the System Operator's ability to manage risk and industry change. We agree a review of Part D would be sensible and it is essential that this is done with industry cooperation.
16. But we understand Network Rail considers it is time to undertake a more fundamental review of the existing timetabling architecture to ensure it continues to be fit for purpose. In effect this review would start with a 'clean sheet of paper'. We support a review but need to hear your proposals for the scope of this work, how it would be resourced and timings.
17. So as not to divert resources from the more urgent short term problems, we will agree dates for these reviews with you for inclusion in the final order.
18. The final order will also include details of how you will be delivering the System Operator capability improvement. This is expected to reflect the proposals that you will be submitting to us by 17 September.
19. In line with our enforcement policy, the ORR board considered whether a financial penalty was appropriate in relation to this licence breach. In the circumstances of this particular case, ORR has decided a penalty is not appropriate as it would not further incentivise compliance. We note that the executive directors have already voluntarily declined any performance related pay for 2018 due to the timetabling issues experienced in May.
20. I am copying this letter to Andrew Haines, Jo Kaye, Francis Paonessa and Paul McMahon at Network Rail, Polly Payne and Ruth Hannant at the Department for Transport, Bill Reeve at Transport Scotland and Simon Tew at Welsh Government. Yours sincerely



John Larkinson
Director, Railway Markets & Economics

Annex: Summary of ORR decision and actions on Network Rail breach of timetabling conditions in Network Licence

Network Rail Licence Breach		
<p>ORR has concluded Network Rail is breaching conditions 1.23 and 2.7 of its network licence.</p> <p>ORR has required Network Rail to undertake 4 immediate actions and will set out further actions required in a final order.</p>		
Immediate actions		
	<i>Action</i>	<i>Completed by</i>
1	Network Rail to provide ORR with an initial report demonstrating how it is running an efficient, effective, fair and transparent process for the December 2018 and May 2019 timetables.	31 August 2018
2	Network Rail to update its T-12 recovery plan, to publish the plan and to report publicly against it thereafter. This should include the number of late notice changes being considered and the reasons for those changes.	31 August 2018
3	Network Rail to accelerate plans to strengthen its timetabling resources and capability, and to produce leading indicators to allow ORR to assess whether it is on course to deliver.	First draft of proposals to ORR by 17 September 2018
4	Network Rail to speed up decisions about structural reform, providing ORR with a draft plan setting out how this will be achieved.	Draft plan to ORR by 30 September 2018
Content of final order		
1	Review of Part D of the Industry Network Code, with industry co-operation.	Date to be set in final order
2	Fundamental review of existing timetable architecture to ensure it continues to be fit for purpose.	Date to be set in final order
3	Specify System Operator capability improvements.	Date to be set in final order