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12 July 2010

Paul Plummer
Director, Planning and Development

Robin Gisby
Director, Operations and Customer Services

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

Dear Paul and Robin,

Possible breach of conditions 1 and 2 of Network Rail's network licence with regard to the introduction of the Integrated Train Planning System

Further to my letter of 20 May and Robin's reply of 25 May, we have investigated the events leading up to introduction of the new integrated train planning system (ITPS) and the impact that problems with the system have had on your customers and rail users.

Based on the information we have at this point we consider that you may have failed, or be failing, to meet one or more of your network licence obligations. Before we reach a final decision I am writing to explain our reasoning and to set out the possible breaches we have identified, to help you to formulate any further representations you may wish to make.

The relevant licence provisions are conditions 1 and 2. Under condition 1.23 you must:

- (a) run an efficient and effective process, reflecting best practice, for establishing a timetable and any changes to it; and
- (b) where necessary and appropriate, initiate changes to relevant industry processes, 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.

Compliance with this condition forms part of the general duty set out in condition 1.2 of your licence.

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Condition 2 (timetabling) contains a general duty which obliges you to provide access to appropriate, accurate and timely information on services to allow passengers to plan their journeys. In particular condition 2.4 states that, in order to comply with the general duty in condition 2.1, you should provide

holders of passenger licences with access to information about relevant changes not less than 12 weeks before the date on which such changes are to have effect

unless to do so would conflict with your obligations under C1.2. These obligations are set out in full as an annex to this letter.

The independent reporter's investigation

We mandated the independent reporter, ARUP, to review the project planning and development of ITPS and your decision to introduce it for the May 2010 timetable. We met the reporter with your colleagues on 24 June to discuss ARUP's findings.

ARUP's report, which you have, sets out aspects of the development and introduction of ITPS that lead us to question whether this was undertaken in a manner consistent with running an efficient and effective process, according to best practice, for establishing a timetable. It identifies decisions made at project inception as key precursors to the ensuing failures. In particular, in the light of the decision to limit the scope of the project (and in particular to rely on the CIF file as a boundary point), it suggests there was inadequate assessment at the outset of the implicit system interface risks. ARUP also question whether there was adequate assessment and mitigation of risks in January 2010 when you took the go/no-go decision. There were then significant failures in the system and vital associated downstream systems when short term planning was implemented.

The impact on customers

We sought information from your customers on the impact of these problems on their businesses and their customers. We have collated this and I attach it for your information.

This feedback leads us to question whether you met and are meeting your obligation (condition 1.23) in terms of enabling them to plan their businesses with a reasonable degree of assurance and to meet their obligations to rail users. The impacts on your customers have included probable revenue loss, significantly increased workload to identify and resolve the errors in their schedules manually and to carry out their own resource scheduling, and knock on operational effects. We believe that the impact on passengers and freight customers has been contained by the hard work carried out by both Network Rail and train operators' planners, but there are examples of serious

inconvenience to passengers and there has been a considerable impact on charter operators and their customers.

We have also investigated whether you provided and are providing accurate and timely information to enable passengers to plan their journeys as required by condition 2. The national rail timetable was published late. Although there is no prescribed timescale for this, information is normally available at T-8. You produced the May timetable at T-4; as a result TOCs were late in publishing their pocket timetables.

There are ongoing problems with informed traveller timescales. TOCs report significant problems with the schedules particularly in the first few weeks of the timetable. Several TOCs have reported that weekend timetables are still not accurate up to the August bank holiday and they are placing prominent warnings on their websites to ignore the published timetable. You indicated on 29 June that you intend to meet your own T-14 commitment by the end of July for all but 2 TOCs.

Summary

We do not question the aims behind development of ITPS, and we recognise that these generally have the support of your customers. Nor do we underestimate the challenges posed by making such fundamental change to business systems supporting a critical industry process with multiple external interfaces. However, particularly in the light of the criticality of this process and the impact that failures would have on train operators and rail users, we do question whether key aspects of Network Rail's management of the programme have been consistent with your obligations.

Can you please let me have any representations on these points by 26 July. If you wish to make these in person please contact me to arrange this. In line with our normal processes our directors will consider your representations and will recommend to our Board whether or not it should find a breach and what, if any, further action is required. During that process we may also seek further information. We will keep you informed of progress.

I am copying this letter to the parties on the attached list and placing a copy on our website.

Yours sincerely

Michael Lee



Michael Lee

Cc:

Train Operating Company MDs

Freight Operating Company MDs

Owner Group MDs

Department for Transport

Transport Scotland

Welsh Assembly

Transport for London

ATOC

RFG

Passenger Focus

LTUC

Annex: the relevant obligations

1 Network management

Purpose

1.1 The purpose is to secure:

- (a) the operation and maintenance of the network;
- (b) the renewal and replacement of the network; and
- (c) the improvement, enhancement and development of the network,

in each case in accordance with best practice and in a timely, efficient and economical manner so as to satisfy the reasonable requirements of persons providing services relating to railways and funders, including potential providers or potential funders, in respect of:

- (i) the quality and capability of the network; and
- (ii) the facilitation of railway service performance in respect of services for the carriage of passengers and goods by railway operating on the network.

General duty

1.2 The licence holder shall achieve the purpose in condition 1.1 to the greatest extent reasonably practicable having regard to all relevant circumstances including the ability of the licence holder to finance its licensed activities.

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Timetable planning

1.23 In complying with the general duty in condition 1.2 the licence holder shall:

- (a) run an efficient and effective process, reflecting best practice, for establishing a timetable, and any changes to it; and
- (b) where necessary and appropriate, initiate changes to relevant industry processes,

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.

2 Timetable information for passengers

General duty

- 2.1 The licence holder shall provide access to appropriate, accurate and timely information relating to planned movements of trains on the licence holder's network, to enable railway passengers to plan their journeys.

Publication of national timetable

- 2.2 In complying with condition 2.1, the licence holder shall, except in so far as ORR may otherwise consent, publish, or procure the publication of, a national timetable of railway passenger services.

Changes to the national timetable

- 2.3 In complying with condition 2.1, the licence holder shall:

- (a) establish and maintain efficient and effective processes, appropriately reflecting best practice; and
- (b) apply those processes to the greatest extent reasonably practicable having regard to all relevant circumstances,

so as to provide appropriate, accurate and timely information on relevant changes to holders of passenger licences so that the latter can in turn provide information to railway passengers on the planned movements of the trains concerned.

For the purposes of this condition 2, "relevant changes" are changes to the national timetable occasioned by:

- (i) any renewal, maintenance and enhancement of the network; or
- (ii) any restriction of use of which the licence holder is, or reasonably ought to be, aware.

- 2.4 The licence holder shall be in compliance with condition 2.3 where it has provided holders of passenger licences with access to information about relevant changes not less than 12 weeks before the date on which such changes are to have effect.

- 2.5 In circumstances where the licence holder is not in compliance with condition 2.3 by virtue of condition 2.4, the licence holder shall not be in breach of condition 2.3 to the extent that:

- (a) providing the information 12 weeks or more before the relevant changes are to have effect would conflict, to a significant degree, with its duty under condition 1.2; and

- (b) it provides access to information about relevant changes to holders of passenger licences as soon as is reasonably practicable having regard to all relevant circumstances.

Access to information for enquiry services

- 2.6 The licence holder shall grant access to information it holds on the planned movement of trains on its network to persons providing or seeking to provide credible enquiry services relating to the operation of railway passenger services on the licence holder's network. The licence holder shall grant access to such information as these persons may reasonably require for the proper carrying out of their operations. The licence holder shall grant access to the information on reasonable terms (including the prices charged, means of access and confidentiality).