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OFFICE OF **RAIL REGULATION**

22nd.
22 April 2008

Iain Coucher Esq
Chief Executive
Network Rail Infrastructure Limited
40 Melton Street
London
NW1 2EE

Dear Iain

FINAL ORDER FOR CONTINUING BREACH OF CONDITION 7

1. We wrote to you on 28 February 2008 informing you of our findings and enclosing details of our decisions and the reasons for them, including the relevant orders and notices following our investigation into the overruns over the Christmas/New Year period at Rugby, Liverpool Street Station (London) and Shields Junction (Glasgow). We issued a notice which described ORR's intention to make a final order in relation to the continuing breach of condition 7 of your network licence and attached a copy of the draft proposed order.
2. We received representations from you on 31 March 2008 regarding the proposed final order. In the representations, you requested that the date for delivering the plan to ORR, referred to in the order, be amended from 31 May 2008 to 30 June 2008. You stated that the reason for the proposed modification was to ensure not only that you had adequate time to prepare the plan for consultation, but also that your consultees had adequate time to consider the consultation and respond to it.
3. We received no other representations.
4. We have considered your representations and agree to the modification you proposed. We consider that this modification allows more time for those who have suffered or are suffering as a result of the breach to be consulted. It does not alter the date by which you have to implement the plan, which remains 31 December 2008. We are also not aware of any party which would be disadvantaged by the modification. We have treated your representation dated 31 March 2008 as consent to the modification, in accordance with section 56(3)(a) of the Railways Act.
5. We have therefore made the final order described in the notice published on 28 February 2008 with the modification referred to above. I enclose the order.





6. A copy of this letter and of the order will be published on our website.

Yours sincerely

Bill Emery

Bill Emery



RAILWAYS ACT 1993 (as amended)

SECTION 55

FINAL ORDER

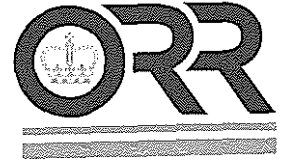
- A. The Office of Rail Regulation ("ORR") is satisfied that Network Rail Infrastructure Limited ("Network Rail") is contravening Condition 7 of its network licence.
- B. Having had regard to section 55(1) of the Railways Act 1993 as amended (the "Act"), ORR considers it is requisite for it to make a final order for the purpose of securing Network Rail's compliance with Condition 7.
- C. ORR is satisfied that:
- (a) the duties imposed on it by section 4 of the Act do not preclude the making of this order; and
 - (b) the most appropriate way of proceeding is not under the Competition Act 1998.
- D. ORR need not consider, under section 55(5B) of the Act, the appropriateness of making this order because:
- (a) ORR is not satisfied that Network Rail has agreed to take, and is taking, all such steps as appear to ORR for the time being to be appropriate for Network Rail to take for the purpose of securing or facilitating compliance with Condition 7; and
 - (b) ORR is not satisfied that the contravention will not adversely affect the interests of users of railway services or lead to an increase in public expenditure.

- E. ORR gave notice under section 56 of the Act of its proposal to make the order¹ and has taken into consideration all representations made in relation to the proposed order.

Therefore:

1. In respect of the contravention, pursuant to section 55 of the Act, ORR requires Network Rail to:
 - (a) produce and deliver a plan to ORR by 30 June 2008, on which it has consulted its customers, relevant funders, Passenger Focus and London TravelWatch, which:
 - (i) demonstrates how Network Rail will implement measures to the greatest extent reasonably practicable, including procedures and training, to ensure that its planning and execution of projects for the renewal, replacement, improvement, enhancement and development of the network which require possessions will be undertaken in an efficient and economic manner and in accordance with best practice (“the Measures”); and
 - (ii) sets out clear milestones showing how Network Rail will implement the Measures; and
 - (iii) demonstrates that particular attention has been paid in the Measures to addressing weaknesses in Network Rail’s risk management, supplier management, site management and communications with train operators and rail users;

¹ http://www.rail-reg.gov.uk/upload/pdf/280208_section_56_notice.pdf



- (b) by 31 December 2008, have implemented the plan and have delivered a report to ORR which demonstrates why it is satisfied that the plan has been implemented.
2. This document constitutes a final order made under section 55 of the Act.
 3. This order shall have immediate effect.

A handwritten signature in black ink that reads "Bill Emery". The signature is written in a cursive style with a long vertical stroke at the end.

Bill Emery

Chief Executive of the Office of Rail Regulation

22 April 2008