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OFFICE *of the*  
RAIL REGULATOR

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### **Investigation into the supply of second-hand locomotives under the Competition Act 1998**

1. As you are aware, the Rail Regulator ("Regulator") has been conducting an investigation under the Competition Act 1998 ("Competition Act") as to whether English Welsh and Scottish Railway Limited ("EWS") engaged in abusive behaviour contrary to the Chapter II prohibition through refusing to supply second-hand locomotives for use in UK rail-freight haulage.
2. In the course of his investigation the Regulator has obtained evidence from EWS regarding its policies and practices in respect of surplus locomotives and employed consultants to conduct a technical review of the evidence. The review has not enabled the Regulator to conclude whether or not EWS's actions constituted an infringement of the Chapter II prohibition.
3. It would therefore be necessary for the Regulator to devote substantial further resources - in addition to those already committed - before he could properly determine whether or not the Chapter II prohibition has been infringed. Further, the Regulator understands that there has been a significant change in EWS's conduct since the commencement of the investigation and considers that the potential competition concerns which prompted the initial investigation appear to have been removed. In the light of the above, the Regulator is not minded to expend further resources on this matter and has decided to close the file on this investigation.
4. Should further matters be brought to the Regulator's attention at any stage, the Regulator will consider whether such matters merit investigation under competition law.

Yours sincerely

**SARAH STRAIGHT**

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