

Bill Emery
Chief Executive
Office of Rail Regulation
One Kemble Street
London
WC28 4AN

20 June 2011

Dear Mr Emery

Further to your letter of 29 March 2011, careful consideration has been given to the ORR Licensing proposal and East Coast would like to make the following comments in response to your questions.

Before answering the consultation questions specifically East Coast want to make some general points as this is such a major issue to TOCs and owning groups.

As you are well aware franchisees take on output obligations for a fixed level of taxpayer support or premium. In competitions for franchises there is an opportunity for Ministers to define outputs on customer information, which has been done. If Ministers wish to change an obligation, or introduce a new set, there is a mechanism in the Franchise Agreement to do this.

Many franchisees wish to undertake improvements in customer service which are not mandated in a Franchise Agreement. These will principally be driven by commercial considerations. The existence of regulated fare levels means that there is often little opportunity to capture quality improvements in higher yields; this is an example of the misalignment of incentives noted in the McNulty Report.

The proposed licence obligation creates problems as the industry is currently working on improvements to information as well as investigating the following:

- The whole industry cost of customer information and the efficiency of that spending.
- What resources will be needed to re-engineer the processes and systems to deliver the service we all want to see.
- Funding requirements to meet the net cost associated with the delivery of the necessary improvements to anticipate that where there is a positive long term business case; there can be a mismatch between the timing of the costs and benefits for an individual TOC due to the structure of the current franchise agreement.

Some of these problems may be capable of resolution for some of the TOC owner groups. But there is the real possibility that an agreed change to the licence will not be possible in all instances.

The industry is working hard through a series of various working groups led by NTF to tackle customer information provision. The reality is that there are some short term activities that will deliver results but the major changes will only be delivered by investment in people, process and systems to meet the growing information needs of the modern rail traveller. In summary current activities include:-

- Making further progress by fundamentally revisiting how the industry approaches information rather than merely by building on existing processes and systems as information strategy is being prepared to support this.
- A targeted plan with short and medium term outputs to deliver improvements by autumn/winter 2012.
- No one industry party can do this in isolation since it requires collaboration between individual TOCs as well as between TOCs (at the passenger end of the process including specification of the form in which information is required) and Network Rail (more at the other end of the process) and the establishment of the RDG provides an opportunity to take this forward.
- Part of the opportunity is for the industry to provide information to other players who may be better placed to find innovative solutions for getting a single source of information to customers.
- The current approach to PIDD (Passenger Information During Disruption) is not delivering results quickly enough due to the scale of the project so a senior level meeting has been set up between NR and TOC representatives to find a more expedient way of tackling the improvements. In the case of East Coast we have worked hard to embrace improvements to customer information and later in this letter we summarise the current plans. No TOC however can do this in isolation and needs the wider industry issues resolved.

EC have concerns about the current drafting of the licence

In addition to the issues above we have significant concerns about the draft licence itself:

- Regulation should focus on the ultimate purpose of providing information to passengers in a way which offers value for money to passengers and funders.
- Regulation should require the parties (under RDG perhaps) to develop a plan including proposed funding arrangements which meets this purpose rather than locking in existing processes and systems.
- The proposed licence modification could therefore be put on hold while RDG perhaps develops a proposed way forward and the regulatory arrangements should then be developed in a way which supports the implementation of these proposals.
- The proposal divides a single business process into two parts: a Network Rail part; and a TOC part. There is no guiding mind or party with overall responsibility for the whole process.
- There is not a mechanism to ensure that what is provided is efficient. A multi party process where costs are shared directly or indirectly needs an explicit consideration of efficiency issues.
- There is no indication of how licence compliance will be judged, and how perceived breaches will be addressed, particularly in the early years. There must be an enforcement policy available at the same time as the consideration of a new licence.

- The licence as drafted will in practice put compliance with the information obligation ahead of any other consideration for a TOC. There will be difficult instances where a trade-off will exist between getting accurate information to customers and the operational management of the trains for the benefit of passengers. There should be an explicit recognition of this in the face of the licence which is expanded in the enforcement policy.

A new licence obligation requires further consideration

There should be a pause in the consideration of the new licence obligation, as mentioned above; perhaps RDG could look at this area as part of the McNulty review work. This need not slow the industry down in grappling with the real issues which must be resolved to give better quality information to passengers.

Whatever the conclusion on the licence, how to prioritise the provision of better information to customers while at the same time aiming for better value for money should be the key area of focus by looking at a whole industry approach. McNulty is clear that we must address both issues simultaneously, and not to simply add once more to the cost of the industry.

East Coast believes the key issues that need to be considered in the short term are:

- Clear accountability for delivering a staged set of interventions.
- Transparency around whole industry resources currently engaged and aligned incentives.
- A costed plan to deliver the necessary improvements, and clarity on the sources of funding.

East Coast along with the rest of the industry recognise that the issues are complex and deep seated, and some will not be solved quickly, however are fully committed to working with the DfT and ORR on finding the best solution to moving this forward.

Do you agree that there is a lack of clear accountability in the current framework for providing information to passengers?

There is certainly no recourse for any one party who fails to deliver obligations in respect of passenger information. Measurement of this is clearly a challenge given that information provision is reliant on multiple interactions and decisions.

As stated above the TOC Franchise Agreements are the current mechanism for this accountability.

Do you agree that licences are the best place to set out aligned accountabilities for providing information?

We are opposed to the licensing conditions as this creates a number of issues for the franchise operator which is linked to cost and efficiency of spending. The resources required to deliver this will also need to be fully understood. There are two issues that need to be addressed before licence obligations are imposed: -

- Funding for the changes required
- The new style Franchise Agreements and the one regulator approach as mentioned in the McNulty report.

East Coast has another 2 years roughly to run so will be one of the first of the new Franchise Agreements. This is an ideal opportunity to specify exactly what is required so that the bidders can make the appropriate provisions in their bids and the industry has the chance to address some of the bigger issues raised above. However just to be clear in the interim East Coast will be investing in improvements and working closely with the industry to tackle this area.

Do you agree the split of responsibilities described is sensible?

No. We would question the principle that Network Rail is responsible for the delivery of a timetable during unplanned disruption. Their role is to provide the route availability to a specified capacity on which the train operator can provide a service in conjunction with neighbouring train operators.

Secondly we would question Network Rail's responsibilities in the provision of information at Major Stations as this often creates inconsistencies in information being delivered by the operators and National Rail Enquiries.

No one industry party can do this in isolation since it requires collaboration between individual TOCs (at the passenger end of the process including specification of the form in which information is required) and Network Rail (more at the other end of the process) and the establishment of the RDG provides an opportunity to take this forward.

The ORR proposal divides a single business process into two parts: a Network Rail part; and a TOC part. There is no guiding mind or party with overall responsibility for the whole process. Nor is there any consideration about mechanisms to ensure that what is provided is efficient. We believe that TOCs should be in the lead in determining what is needed for passengers. We should work together with Network Rail to deliver better information to passengers, and we believe our relationship with Network Rail should be underpinned by a licence obligation and contractual commitments. To support this, and to ensure that the best value for money solutions are developed, a transparent charging policy should be developed as part of the CP5 determination for information services provided by NR.

Are there any other changes in the way the industry handles information for passengers that would complement new licence obligations and help the industry deliver the needed improvements

See comments above.

Do you have any suggestions to improve the proposed licence drafting?

See comments above.

Who do you think should be covered by these proposals?

See comments above.

What impact do you think these proposals would have?

See comments above.

What extra information about how these conditions would work in practice would be useful?

It is important to recognise that significant work on PIDD and how we manage customers during disruption is already continuing within East Coast. Examples of East Coast contributions in these areas are as follows:

- DOR Chairman leads PIDD Industry Work stream 4 – research in the development of industry behaviours which drive improvement in passenger information as well as how information can be improved for frontline staff;
- Significant work is underway with NR to improve contingency plans including training on areas such as new diversionary routes etc;
- Alignment to the ATOC Good Practice Guides;

- Development of a mobile information site using Darwin Data;
- Introduction of Mobile Technology for Guards and we are just about to sign off an investment for the same technology for on board teams;
- Development of North London Station Termini Disruption and Crowd management plans;
- Increase in resources to deliver 24 hour dedicated Customer Information Controllers;
- Development of Alternative Route Plans and information cards.

East Coast has perhaps faced more disruption in the last 18 months than many train operators – we have become more than aware of the gaps in the current process and are very supportive of change in this vital area. The industry does need to do a better job for customers; however we cannot support the way forward proposed by the ORR without some of the fundamental issues raised in this letter being addressed.

Yours sincerely,



Danny Williams
Operations Director