



ATOC

Association of Train Operating Companies

Mr John Larkinson
Director, Economic Regulation
ORR
One Kemble Street
London WC2B 4AN
United Kingdom

12th January 2015

Dear John

Ref: ORR Open Letter re Disabled Persons Protection Policy compliance and approval process

I am writing to you on behalf of members of the Association of Train Operating Companies, further to your Open Letter dated 18 December 2014, and in the immediate absence of Commercial Director (David Mapp) and Head of Disability and Inclusion (David Sindall). David Mapp e-mailed you on 31 December to advise regarding the situation.

Train Operators and ATOC have now been through the content of the letter and the supplementary annexes, against the context provided by the ORR's *Disabled people's protection policies – a regulatory statement*, which was published in July 2014.

An immediate point to make is the difficulty that the very short deadline and lack of advanced published proposals has caused, for companies who are fully committed to meeting the needs of disabled and mobility-impaired passengers, but must work through the implications with the necessary teams in their organisations, Government departments and other key interest groups. The letter was sent out just as the Christmas break was starting, requiring all TOCs, including those who had already been in discussions with you or had their policies already approved, to provide revisions and have the plans to make their services fully compliant to you by 23 January. This left very little time for companies to take the necessary actions, and has prevented the joined-up regulatory approach that TOCs would have preferred.

The letter itself then offers a number of new interpretations, language changes and recommendations that do first need ORR explanation and clarification, before the train operators and the responsible authorities for current and future franchises/concessions and Network Rail can be in a position to fully understand what the ORR is proposing.

It is important for the ORR to explicitly recognise that its current proposals – particularly regarding management of unstaffed stations, but not limited to this - do offer direct impacts on the operational arrangements and financial requirements for current and future franchises/concessions, and all affected parties do need full, fair and comprehensive consultation. With that transparent dialogue and understanding in place, TOCs can then either respond to ORR with their revisions or provide informed and evidenced-based supplementary questions.

In addition to the letter, the initial *Disabled people's protection policies – a regulatory statement*, published in July 2014, has caused further confusion. It had already set out clearly the ORR position, that:

- " In terms of regulatory impact, we are not imposing any major new requirements beyond those already in place in the licence and the guidance.....". (Page 8)
- "...in any case, the licence condition makes clear that licensees are under no obligation to undertake any action that entails excessive cost". (Page 9)

With no available new Regulatory Statement or Regulatory Impact Assessment provided for recipients to judge against the previous advice, to help them understand whether the measures proposed are proportionate, to conclude whether costs entailed would be excessive or the new requirements major for their business, and with no supplementary guidance given as to how ORR reached its conclusions or modelled the impacts and implications of its intended policies, companies are being required to work out for themselves just how their businesses and contracts with franchise/concession authorities will be impacted.

As a result, and on behalf of ATOC members, I am asked to formally recommend that this proposed response date of 23 January is revised, and that ORR convene a suitable workshop or roundtable as quickly as possible, to bring together the key interest groups and work through the material, and issues arising, towards a successful conclusion.

ATOC wish to offer its help to assist ORR in bringing this event about as promptly as possible.

Having now heard from most of the franchise authorities/concession owners and Network Rail, there would seem to be a fundamental industry need to understand the ORR proposals more thoroughly, and work through the possible collective implications together. Given the progress that the collective rail industry has already made, towards ensuring that disabled and less mobile passengers find rail travel increasingly a safe, pleasant, cost effective and efficient method of transportation,



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we believe that time taken now to create effective and sustainably funded policies, will ensure that this momentum is maintained.

I look forward to hearing from you John and, as ever, would be pleased to be involved as needed.

Yours sincerely

Nick Ellins

Director of Policy, ATOC and Rail Delivery Group

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