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Dear John

Possible non-compliance with Conditions 1.23 and 2.7 of Network Rail's network licence relating to national timetabling processes

I write in response to your letter of 29 June 2018 in relation to the above issue. Within your letter you set out your preliminary view that Network Rail has and is continuing to contravene Conditions 1.23 and 2.7 of our Network Licence in that we are failing to deliver, to the greatest extent reasonably possible, having regard to all relevant circumstances, our obligations to:

- run an efficient and effective process, reflecting best practice, for establishing a timetable, and any changes to it, 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 (Condition 1.23);

and to

- establish and maintain efficient and effective processes reflecting best practice and apply those processes to the greatest extent reasonably practicable having regard to all the relevant circumstances so as to provide appropriate, accurate and timely information on relevant changes to train operators (Condition 2.7).

Both of these obligations require Network Rail to have in place efficient and effective processes which reflect 'best practice'. The reference to 'best practice' requires Network Rail to meet the highest possible standards; a requirement that Network Rail acknowledges and accepts it is duty bound to achieve.

It was with this context in mind that your letter was discussed by the Executive Committee on Monday 2 July. Consequently, whilst we consider that Network Rail has to date operated a process for timetable planning that has generally been regarded as effective and efficient, the unprecedented events leading up to the May 2018 timetable have demonstrated that our processes do not meet the best practice standards required by the relevant licence conditions, i.e. our processes are not better than all possible alternative processes that could have been put in place and therefore the requirement to achieve *best practice* (referenced in

each condition) has not been reached. We therefore consider that we are, and continue to be, non-compliant with the best practice aspects of Conditions 1.23 and 2.7 of our Network Licence.

Within this letter, we outline the reasons which have led to the realisation that we are falling short of the best practice requirement, the action being taken to resolve the immediate issues and the longer term steps that Network Rail and the wider industry will need to take to mitigate the risks of a future recurrence of these events. We recognise that this issue, when coupled with all other circumstances, has caused considerable disruption to passengers and freight users who rightly demand a reliable timetable to enable them to plan their transport arrangements with a reasonable degree of certainty and we have publicly apologised for this. This issue has caused Network Rail and the wider industry significant and sustained reputational damage. Collectively, the industry knows that it must do much better and we are working together to address the immediate situation. The inability to achieve informed traveller timescales has led to us paying substantially higher Schedule 4 compensation payments to the operators than would ordinarily be the case. This will continue until T-12 is recovered.

Response to ORR preliminary views

As outlined in our letter of 8 June 2018, the causes of our current inability to provide 12 weeks advance notice of the amended timetable are complex and include factors for which both Network Rail and the wider industry are responsible and these are the relevant circumstances referred to in Condition 2.7.

North West Electrification Programme (NWEF)

It is clear that the deferral of NWEF Phase 4 has had a significant impact on our ability to adhere to T-12 timescales. The System Operator (SO) was aware of concerns with the NWEF Phase 4 project and had identified the critical link to completion of the electrification project for the May 2018 timetable with the System Review Group (providing reports to the North of England Programme Board). The System Review Group was repeatedly assured that the project would deliver to time and understood that there was no timetable contingency available. However the delivery situation was further compounded by two specific issues:

- the Moses Gate burst water main incident which compromised the volume delivery during the summer 2017 blockade. Risks to the programme completion were flagged as a consequence of this event; and
- the previously identified issue of significant and exceptional ground conditions and the need to implement a revised piling methodology.

Other relevant circumstances

In addition to the delays in delivering NWEF Phase 4, there were a number of other wider issues at play which contributed to and compounded the T-12 problem. These included:

- the ongoing difficulty a number of operators were experiencing in meeting T-18 short term planning bid timescales for informed traveller for various reasons, as outlined in previous correspondence.

- a late decision to introduce a phased timetable on Thameslink by the Industry Readiness Board outside of normal timetable development timescales which required GTR and associated train operators to re-work their timetables resulting in bids only being received in January 2018. The handling of subsequent train operator variation requests through February and March 2018 also required a significant level of resource commitment from the SO, meaning that the revised timetable was later in completion than was originally envisaged when the phasing decision was taken.
- late notice by Abellio ScotRail (February 2018) that the Class 385 trains would not be available to support, and would require a re-write of, the May 2018 timetable.

As a consequence of NWEF and the other relevant circumstances, and as you highlight in your letter, it became necessary to re-write the May 2018 timetable seven weeks after it had been offered to the industry. Notwithstanding this, it is not immediately clear to us how the SO failed to apply its hitherto effective processes to the greatest extent reasonably practicable having regard to all the relevant circumstances, especially as the original timetable was offered on time. This process and practice has developed from Part D of the Network Code and whilst it has been efficient and effective it has been necessary to accommodate a flexible approach to industry deadlines. The resulting amendments to the offered timetable, with the exception of delays to NWEF Phase 4, were caused by a range of factors that were not all exclusively within Network Rail's gift of control. Once issues did come to light, the SO acted decisively to re-write the timetable and create an industry recovery plan for T12. It is clear that what has to date been regarded as an efficient and effective process now needs to be strengthened, including a review of Part D of the Network Code, so that the SO is more fully able to understand and manage risk associated with timetable change (and to catch up with the changes in the industry which has occurred since the Part D of the Network Code was established).

In relation to NWEF Phase 4, we recognise that the current problems are partly related to the planning, management and delivery of infrastructure projects and the interface between route businesses and the SO timetabling function. In future, the route sponsorship role will be strengthened to address this issue. It is also clear that consideration will need to be given to strengthening the role of the SO to make earlier judgment calls so as to better manage risks to train service changes that are reliant on the successful delivery of major timetable changes.

Within your letter you state that there is evidence that strategic risk to the national timetable from non-delivery of the NWEF Phase 4 works was not sufficiently understood by all those involved and proactively risk assessed as part of the overall timetable planning process. As we have previously outlined, towards the latter part of 2017 it became clear that NWEF Phase 4 was falling behind schedule and at this point the risk to the delivery of the national timetable was highlighted to a range of stakeholders including the North of England Programme Board. At that point, successful delivery of planned activity over the Christmas 2017 blockade was recognised as being key to providing confidence in delivery of the remaining works. Targets were set with a pre-agreed position that an industry decision would be taken on 5 January 2018 (at a specially convened Programme Board) based on the volumes achieved. All but one of the required volumes were delivered over the Christmas period. It was not possible to deliver the target for foundations as a direct result of the difficult and unpredictable ground conditions, leading to the decision to defer completion of the works. It may have been possible to make the decision to defer completion of the works in advance

of the May 2018 timetable being offered in November but such an announcement to defer would have also delayed the realisation of end user benefits had this scheme subsequently completed on time. Therefore any such decision is likely to have been met with significant criticism given that, at that time, there was still a reasonable expectation that the remaining works could be delivered.

Action to Resolve Immediate Issue

Following the decision to defer NWEF Phase 4, the SO worked in close collaboration with the wider industry to establish a whole industry recovery plan. We have put in place the necessary programme management arrangements and industry stakeholder engagement plans to assure ourselves and industry stakeholders that delivery of the recovery plan remains on target but such delivery will rely heavily on the sustained efforts of all industry parties. We would also note that at this time, decisions relating to what changes will be included in the December 2018 timetable will affect the availability of a national base timetable and will likely have an effect on the recovery plan completion date. This will cause the recovery plan to revert to a T-6 timetable publication and the industry will need to work together to continue to carefully manage this.

Network Rail has established a Strategic Crisis Management Team (SCMT), chaired by Paul McMahon, to ensure that decisions are being made in the best interests of the industry and its customers. The SO has also appointed a core programme team to lead the informed traveller recovery plan. This team has been resourced to provide programme management, communications, stakeholder engagement, reporting and analysis, risk management and resource planning capability with overall accountability for timetable development continuing to be held by the Head of Timetable Production (Delivery) within the SO. Additionally, the Capacity Planning team within the SO has continued to hold weekly conference calls with the Operational Planning Steering Group (OPSG) as well as periodic OPSG meetings where the underlying issues have been discussed. The National Task Force (NTF) has also been engaged and consulted throughout.

The SCMT has established and is maintaining a forward view of the risks associated with the delivery of the informed traveller recovery plan, including challenging the previously assumed completion dates of infrastructure projects, new train introduction, rolling stock cascade and operational readiness for both train operators and Network Rail.

We continue to engage fully with ORR colleagues as we deliver our recovery plan and have agreed formal progress monitoring and reporting arrangements.

Next steps

The SCMT has undertaken a key role to date and is committed to supporting the industry recovery through to the May 2019 timetable. In parallel to working with the wider industry to establish a PMO control and reporting capability, the SCMT will be working with the SO and wider stakeholders to strengthen the way in which the industry manages risks which underpin timetable planning. This includes securing greater certainty of the upstream dependencies such as the availability of new infrastructure and rolling stock, rolling stock cascade and operator and route business operational readiness.

There was an unprecedented scale of timetable change in comparison to previous years (rising from an average of ten thousand changes to forty two thousand changes). We are

collaborating with wider stakeholders to ensure that for the May 2019 timetable and future timetables there is regard for the capacity of the SO and the industry to deal with such scale of timetable change and that if necessary, volume is capped so as to ensure that it can be accommodated in an individual timetable change.

We acknowledge ORR's recognition that the industry timetabling process is no longer working as originally envisaged and that deadlines are treated somewhat flexibly. We believe that a fundamental review of Part D of the Network Code needs to be undertaken by the industry in order to strengthen the SO's ability to understand and manage risk associated with timetable change and to reflect industry change since the code was originally established.

We recognise that ORR has formally launched its independent inquiry into this issue and the management of risks created by major network changes. We will fully participate in and support ORR's conduct of this inquiry, the output of which may identify important lessons that can be applied in advance of future major timetable changes.

Summary

As stated above, we consider that we are, and continue to be, non-compliant with the best practice aspects of conditions 1.23 and 2.7 of our Network Licence (as outlined above). It is clear that the onus is very much on Network Rail together with wider industry stakeholders to resolve the immediate issues and we believe that we have the right recovery plan to address the situation and return to T-12 adherence as soon as reasonably practicable.

We believe that we are taking the appropriate steps so as to proactively rectify the immediate identified issues and we, will of course, participate fully in ORR's independent inquiry into the May timetable disruption.

Should you require further information or wish to discuss further at a meeting, please do not hesitate to let me know.

I am copying this letter to Mark Carne, Francis Paonessa and Paul McMahon at Network Rail, Polly Payne and Ruth Hannant at the Department for Transport, Bill Reeve at Transport Scotland and Simon Tew at Welsh Government.

Yours sincerely



Jo Kaye
Managing Director, System Operator