

John Larkinson
Director, Railway Markets & Economics



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Jo Kaye
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Dear Jo

Possible breach of conditions 1.23 and 2.7 of Network Rail (NR)'s network licence relating to national timetabling processes

1. I wrote to you on 25 May 2018 to advise ORR is formally investigating NR's management and handling of changes to the national timetable and the requirement to normally provide information 12 weeks before any change takes effect (known as T-12). This letter summarises our preliminary findings following our investigation, and gives NR the opportunity to make any additional representations.
2. The purpose of our investigation was to establish if NR did, or is doing, everything reasonably practicable to achieve compliance with its obligations set out in licence conditions 1 and 2.
3. Thank you for NR's co-operation and the information provided to ORR during the investigation. We have considered all that information, including your response of 8 June, material provided to us in or following meetings and information from relevant passenger and freight train operators, funders and passenger groups.
4. Our investigation has come to focus on the interfaces between NR Infrastructure Projects (IP) and NR's System Operator (SO) and whether timetabling decisions are being taken with a whole system perspective in mind.
5. We have also considered if there are factors that could be affecting NR's compliance with its obligations that may be, in part or completely, outside NR's control.
6. Our preliminary view is that NR has and is continuing to contravene conditions 1.23 and 2.7 of its network licence in that it is failing to deliver to the greatest extent reasonably practicable, having regard to all relevant circumstances, its 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; and to
- Establish and maintain efficient and effective processes reflecting best practice and apply those processes so as to provide appropriate, accurate and timely information to train operators.

7. This view is, of course, subject to considering any further representations from NR.

Summary of ORR findings

8. The May 2018 timetable included an unusually large scale of change, with ~60% change from the previous timetable. There were existing pressures on the timetabling process including issues with compliance with the process deadlines and the impact of enhancement projects, rolling stock availability and franchise driven changes to services.

9. It became necessary to rewrite the May 2018 timetable 7 weeks after NR offered it to the industry in November 2017. This should not have happened; it is evidence that best practice was not consistently applied by the NR SO who is accountable for the production of the national timetable.

10. The current problems are partly related to the planning, management and delivery of infrastructure projects and their interface with the SO timetabling function, including both the impact on short-term timetable planning and longer-term planning such as for the May 2018 timetable.

11. We agree with NR that a key cause of the recent breakdown in the timetabling process and in meeting normal T-12 timescales for notifying changes to the timetable, was the failure to complete electrification of the Bolton corridor (NWEF Phase 4) in December 2017 and its deferral in January 2018.

12. We consider there is evidence that:

- a. Strategic risk to the national timetable from non-delivery of the NWEF Phase 4 works was not sufficiently understood by all of those involved and pro-actively risk assessed as part of the overall timetabling planning process.
- b. When concerns were raised about progress, contingencies were not fully considered until late in December/early January. The electrification 'go/no go' decision then coincided with other significant enhancement project decisions (such as Thameslink rephasing) and consequential timetable re-planning. This further impacted NR's timetabling resources and its capability to deliver the original May 2018 timetable.



- c. The final 5 January decision to defer NWEF Phase 4, once it became clear the December works had not been completed as planned, was too late to be reflected in the May 2018 timetable offered in November 2017 and too late for NR to produce a robust revised timetable.

13. NR does not control all aspects of timetabling and the implementation of complex changes is necessarily a whole industry issue. Network Rail was also under a lot of pressure to deliver NWEF Phase 4 given the earlier problems, which may have affected reporting. If it had taken the decision earlier to announce a delay and a timetable re-write it would almost certainly have been criticised for that too. Nevertheless, given the SO's role as creator of the timetable and guardian of the timetabling process, we would expect NR to take the lead bringing together the industry to resolve the timetabling problems to the benefit of passengers and freight end users.

14. Moreover, there is evidence the timetabling process in Part D of the industry Network Code is not working as envisaged and that deadlines are treated somewhat flexibly (although this may be to facilitate further engagement between NR and its customers). If the industry process is not working and/or could be improved, it is the responsibility of the NR SO to lead this work.

15. We acknowledge the past and ongoing work by NR and the industry to address the current timetabling problems and NR's commitment to deliver the current T-12 recovery plan. However, the recovery plan is very fragile and it is not yet clear if it will be delivered on time.

16. There continues to be significant risks to the development and delivery of the December 2018 timetable. We welcome NR's recent focus on understanding the key assumptions underpinning the next timetable change and its work with operators to assess the industry's readiness, the many risks including around key infrastructure projects and rolling stock, and the options for managing these risks.

17. However, these arrangements resulted from the May timetable problems. As such, they are not routine practice integrated into the timetabling process, as might be expected for major timetable changes.

18. We are not yet assured that NR has the capability, processes and structures in place to ensure the timetabling problems recently experienced will not happen again. We therefore consider there is a case that NR is currently contravening its network licence.

Next steps

19. We invite NR to make any further representations by 2pm on Friday 6 July 2018. We may use any information you provide in our evidence report, which we will send to you to check accuracy and publish once our investigation is over. We will publish this letter and your response on our website.



20. We will then consider what recommendations to make to our Board about whether or not NR is currently contravening its network licence, if so whether it is appropriate to impose an enforcement order and, if so, the timings for doing so. This is likely to be at a special ORR Board meeting in mid-July. Any recommendations we make to our Board will have due regard to ORR's ongoing independent inquiry into the events relating to implementation of the May 2018 timetable.

21. I am copying this letter to Mark Carne and Frances Paonessa 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



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Director, Railway Markets & Economics