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OFFICE OF RAIL REGULATION

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Dear stakeholder

The systems code and Network Rail's network licence

We are grateful to Network Rail for organising and inviting us to attend the systems code workshop held on 9 December, and to stakeholders for participating actively in the discussion. This focused on your views of the systems code and whether or not condition 24 of Network Rail's network licence could be allowed to fall away from 31 March 2010.

The key points we noted from the workshop were:

- The high value the industry places on the systems code as a framework for managing and developing complex industry systems in a controlled way, and on ORR's continued involvement in the code (for example, as an appeal body able to settle certain disputes);
- Network Rail's clear commitment to maintain and comply with the systems code, whatever happens to licence condition 24; and
- The industry's commitment to review and update the systems code in 2010.

At the workshop Network Rail explained that the code could be viewed as satisfying its obligations under several different conditions in its network licence: condition 24 which was tabled at the workshop, condition 1 which deals with Network Rail's key obligations around network management and condition 8 which deals with stakeholder relations. Therefore, in Network Rail's view, even if condition 24 disappeared Network Rail would still have an obligation to prepare and follow the code and ORR would still have a role in enforcing those obligations.

Also at the meeting Network Rail discussed the possibility of the systems code being contractualised. We note that in clause 6.4.1 of the passenger model track access contract and clause 6.5.1 of the freight model track access contract there is already an obligation on the parties to use the code in their dealings with each other and to comply with the code.

As agreed at the workshop, we are now seeking your views on this issue. In particular, do you agree with the key points noted above? Do you agree with Network Rail that if



Page 1 of 2

Doc # 365688.01C



condition 24 were to disappear it would still be obliged to operate the systems code under other terms in its licence? What do you think would be the advantages and disadvantages of such an approach? Do you think that the clauses in the model passenger and freight track access contracts provide you with the reassurance that the code is required without licence condition 24. If not, why not?

Please send your comments to sukhninder.mahi@orr.gsi.gov.uk by Friday 15 January 2010.

We would prefer you to send your comments by email. But you can also post your comments to:

Sukhninder Mahi
Senior Executive, Licensing and Network Regulation
Office of Rail Regulation
One Kemble Street
London
WC2B 4AN

Please indicate clearly if you wish all or part of your response to remain confidential to ORR. Where you want to respond in confidence, please attach a summary that excludes the confidential information which we can use. We may also publish the names of respondents in future documents or on our website, unless you say you wish your name to be withheld. We will assume we may publish all responses and names unless you tell us otherwise.

If you want to discuss the issues raised in this letter please call me on 020 7282 2072.

I look forward to hearing from you.

Yours sincerely

A handwritten signature in blue ink that reads 'Rob Plaskitt'.

Rob Plaskitt