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OFFICE OF **RAIL REGULATION**

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To: see attached list of stakeholders

## **ORR review of the approach to third party investments**

Dear Stakeholder

1. In our March 2007 document "Policy framework for investments – update on implementation guidelines" (our investment guidelines) we said that we would carry out a comprehensive review of the arrangements for third party schemes once these arrangements had been in existence for a full financial year, i.e. around September 2007. This letter sets out the process we intend to follow in completing this review, following discussion at stakeholder workshops we held on 25 and 26 September 2007.

2. In order to inform our review, in our investment guidelines we asked stakeholders for comments on certain aspects of the current arrangements (including the templates we approved under Part G of the Network Code). We also said in our investment guidelines that we intended to convene a meeting of the stakeholder working group on third party investments in April 2007 to discuss the consultation questions.

3. Following the stakeholder workshop on 19 April 2007, we received 13 consultation responses<sup>2</sup>. We then asked Network Rail to consider the issues raised in them so that it could propose appropriate changes to the template agreements (and other relevant arrangements) to address the issues raised by stakeholders. Following two meetings with Network Rail to discuss its initial views on the issues raised, Network Rail set out its proposals in a letter to us on 12 July: that letter is also available on our website<sup>3</sup>.

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<sup>1</sup> See paragraph 20 of that document, available at <http://www.rail-reg.gov.uk/upload/pdf/invest-guide-let-020307.pdf>

<sup>2</sup> Available on our website at <http://www.rail-reg.gov.uk/server/showiConWebDoc.8746>

<sup>3</sup> See <http://www.rail-reg.gov.uk/upload/pdf/impgui-nr-120707.pdf>





4. Given the number of issues raised in the consultation responses and the fact that stakeholders had agreed at the April workshop that a further workshop would be useful, we decided to convene further workshops in September, which were held on 25 and 26 September 2007. We circulated Network Rail's presentation on its proposals for addressing issues raised in the consultation responses after the workshops, asking stakeholders for any comments on the proposals by 8 October. In recognition of the range of issues raised in Network Rail's proposal, we are content to receive any further stakeholder responses after this date where necessary, provided the responses are submitted by 16 October 2007.

5. We intend to complete our review of the overall arrangements as promptly as possible, taking due account of stakeholders' comments. We will issue a letter at the end of this review process setting out the changes required to the arrangements, including the policy changes that Network Rail need to implement through amendments to the template agreements. We expect to issue that letter by the end of November 2007, and will publish the letter on our website, in the "Investments" section (<http://www.rail-reg.gov.uk/server/show/nav.190>).

6. From this point forward, the process, which may involve appropriate discussions with relevant stakeholder(s), will be as follows:

- (a) Network Rail will revise the templates appropriately. We understand from Network Rail that it has already begun redrafting relevant sections of the templates and is aiming to complete its redrafting of the templates by mid November.
- (b) Network Rail should then make the revised draft templates available to stakeholders at that stage:
  - (i) with a document explaining why these changes have been made;
  - (ii) asking for comments within one month on whether or not the issues raised by stakeholders in response to our consultation (or subsequently) have been properly taken account of, including any issues raised by us.
  - (iii) We will also add a link to the revised templates on our website.
- (c) Network Rail should then resubmit the revised template agreements to us for approval of the amendments to the terms and conditions.

7. We recognise that stakeholders may wish to contract with Network Rail using the revised templates in advance of Network Rail's final submission of the templates to us, so that stakeholders can gain the benefits of these changes at an early stage.

8. This letter will also shortly be published on our website.

Yours sincerely



**Jon Clyne**



## **Annex: Stakeholders receiving this letter**

All members of the stakeholder working group on third party investments

Other stakeholders invited to, or attending the ORR workshops