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Mr Phil Hufton
Managing Director Network Operations
Network Rail Infrastructure Limited
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23 April 2015

Dear Phil,

Investigation into Network Rail's delivery of operational performance in 2014-15

I wrote to you on 24 February 2015 to advise that the Office of Rail Regulation (ORR) was assessing Network Rail's (NR's) delivery against its performance objectives for the first year of Control Period 5 (CP5). I stated that as part of this process I would be writing to all franchised Train Operating Company (TOC) Managing Directors to seek their views on NR's delivery to their operations as detailed in its bi-laterally agreed Performance Strategies. The deadline for these responses was 17 April 2015.

For the first two years of CP5 we accepted that NR could not achieve the regulated Public Performance Measure (PPM) Moving Annual Average (MAA) and Cancellations and Significant Lateness (CaSL) (MAA) targets for England and Wales specified in our determination. We therefore agreed to hold NR to account for the delivery of the inputs specified in its Performance Plan and the targets specified in its bi-laterally agreed Performance Strategies. We have set out our approach to enforcing TOC operational performance in CP5 in the attachment to this letter.

Based on the final Period 13 figures we have received from NR, these demonstrate that:

- a. Scotland out-turned at 90.5%, 1.5 percentage points (pp) below the 2014-15 PPM (MAA) regulatory target (*Scotland is still held account for this regulatory target*)
- b. The following operators missed their PPM (MAA) Performance Strategy targets by greater than the 2pp threshold and / or their CaSL (MAA) Performance Strategy targets by greater than the 0.2pp threshold:

	PPM MAA	Variance to target		CaSL MAA	Variance to target
Southern	83.1%	4.7pp	Southern	4.8%	1.9pp
GTR	85.2%	2.8pp	GTR	4.3%	1.3pp
FTPE	88.6%	2.4pp	Virgin Trains West Coast	5.0%	1.0pp
			AGA	2.5%	0.9pp
			FTPE	4.3%	0.8pp
			SWT	2.7%	0.6pp
			FGW	3.0%	0.4pp
			Southeastern	2.8%	0.3pp

We have now concluded our initial review and I am writing to advise that we are commencing an investigation into NR's performance delivery in 2014-15. This review is based on our analysis of your reported Period 13 PPM (MAA) and CaSL (MAA) numbers and the views of operators received in response to my letter of 24 February 2015.

Purpose and scope of the investigation

To establish whether NR did or is doing everything reasonably practicable to meet its licence obligations in relation to achieving its regulated performance outputs in CP5.

Our initial review and analysis of performance in 2014-15 has raised concerns with performance in Scotland and a range of England and Wales operators.

We have decided at this time that, given the performance out-turns in Scotland (against its regulated 2014-15 performance targets) and operators Southern and Govia Thameslink Railway (GTR) (against their Performance Strategies) and our initial review findings that these should form the basis of this investigation.

Southern and GTR performance in 2014-15 represents roughly a third of the England and Wales PPM shortfall and roughly half of the CaSL shortfall in England and Wales.

Although we have decided not to investigate formally other operators at this time, we do still have some concerns about risks to delivery of other operators (*First Great Western, Virgin Trains West Coast, Southeastern, South West Trains, Abellio Greater Anglia and First TransPennine Express*) and we will continue to monitor NR's delivery of operational performance to these operators through our regulatory processes.

The quarter 4 review of progress against NR's performance Plan will also be a key source of evidence. We may also consider any relevant evidence provided by other operators which could highlight potential systemic operational performance issues.

This investigation will therefore look at:

- performance PPM targets in Scotland for the first year of CP5 (regulated performance target);

- b. performance delivery to Southern for the first year of CP5 (Performance Strategy targets);
- c. performance delivery to GTR for the first year of CP5 (Performance Strategy targets);
- d. ensuring that end of CP5 regulatory targets are met – including assessing whether there any systemic weaknesses relating to NR's operational planning, management and delivery of performance, such as timetabling.

Please note we have not yet received responses to our February letter from all the TOC's listed in the table above. If we receive any such responses during our investigation we will consider, on the basis of their feedback, whether the scope of this investigation needs to be extended to include one or more of these operators. We will inform NR if we propose to revise the scope of this performance investigation and terms of reference accordingly.

Terms of reference of investigation

A detailed terms of reference for this investigation is attached to this letter for your reference.

Timescales

We hope to conclude our investigation by the end of May and will inform you of our findings and next steps. This may include, if appropriate, any recommendations to the ORR Board in relation to whether NR has breached its licence.

At this stage we expect to liaise primarily with NR and funders, as we will use feedback we have already received from operators, though may seek further operator views in the course of our investigation.

We welcome NR's continued co-operation and engagement on this matter and any information you would like us to consider as part of this investigation by 6 May 2015.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'A. Price', is located below the 'Yours sincerely,' text.

Alan Price
Director, Railway Planning and Performance

cc: Paul Plummer, Group Strategy Director

Attached: ORR's detailed Performance Investigation Terms of Reference