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26 February 2013

To those on the list of recipients at Annex A

## **Review of the General Approval (Stations) 2010 & General Approval (Depots) 2010**

### **Introduction**

1. This letter seeks your views on the operation of the General Approval (Stations) 2010 and General Approval (Depots) 2010. It sets out the reasons why we are undertaking a review, what we hope to learn from it and next steps.

### **Background**

2. The General Approval (Stations) 2010 and General Approval (Depots) 2010 (“the General Approvals”) were issued in June 2010, following our consultation on ‘a more focused approach to stations and depots access’. The original consultation document can be found [here](#). Our consultation conclusions can be found [here](#).
3. When we introduced the General Approvals we undertook to monitor their use and effectiveness, identifying any opportunities for amendments and revisions as appropriate. We also proposed to undertake a formal review towards the end of 2010 of how the General Approvals were operating and undertook to consult you for your views.
4. We took a conscious decision to delay our review because we wanted to allow more time for everyone to become used to operating under the General Approvals, and to have an opportunity to identify any areas for revision.

### **ORR monthly audit of General Approval submissions**

5. As part of our quality control processes we undertake a monthly audit of the use of the General Approvals. A random sample amounting to 50% of the agreements/amendments submitted under the General Approvals in the previous month is reviewed by a member of the team. Among other things, we check to ensure that the General Approvals have not been misused.



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6. Our audits confirm on the whole that the General Approvals are operating well and no significant issues have been identified. Where we have identified any inappropriate use of the General Approvals, we have quickly established that this has been unintentional and the result of oversight by the submitting parties. In every instance, the matter has been quickly put right.
7. On the basis of our audit results and in the absence of any feedback from the industry to the contrary, we have concluded that the General Approvals are operating well.
8. However, the General Approvals have been in use for over two years and we consider it is now timely to undertake a review to understand any ways in which they could be improved.

### **Review of the General Approvals**

9. In operating the General Approvals ourselves, we have identified a few areas where we consider that they could be changed and improved. We consider that the changes we have suggested are non-contentious and will have the effect of further streamlining the process of regulatory approval for the industry.
10. We have set out our proposals and reasons in annexes to this letter – Annex B relates to the General Approval (Stations) and Annex C to the General Approval (Depots). At Annex D we suggest changes we propose to make to our template access agreements.
11. Any changes that we conclude should be made to the General Approvals will be implemented as soon as is practicable. And we will also make any related changes to our guidance documents and/or template access agreements that become necessary as a result.

### **Seeking your views and next steps**

12. We are keen to hear your views on the revisions that we have proposed in Annexes B, C and D. We are also keen to hear your views on any other ways you believe the General Approvals or template agreements could be altered or improved.
13. We intend this to be a focused consultation so that we can implement any revisions to the General Approvals as soon as is practicable. **We would appreciate your comments by 17:00 on 23 April 2013.**
14. Comments can be sent via email to [stations.depots@orr.gsi.gov.uk](mailto:stations.depots@orr.gsi.gov.uk) or via post to: Stuart Freer, Stations and Depots & Network Code Executive, Office of Rail Regulation, London, WC2B 4AN.
15. Please note, when sending documents to us in electronic format that will be published on our website, we would prefer that you email us your correspondence

in Microsoft Word format. This is so that we are able to apply web standards to content on our website. If you do email us a PDF document, where possible please:

- a) create it from the electronic Word file (preferably using Adobe Acrobat), as opposed to an image scan; and
- b) ensure that the PDF's security method is set to no security in the document properties.

16. We shall make all responses available in our library, we shall publish them on our website and we may quote from them. If you wish all or part of your response to remain confidential, you should set out clearly why this is the case. Where you do make a response in confidence, please attach a summary, excluding the confidential information, which we can use as outlined above. We will publish the names of respondents in future documents or on our website, unless you indicate that you wish your name to be withheld.

17. If you have any questions regarding any aspect of the review, please contact Stuart Freer on 0207 282 3674.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Gerry Leighton', written in a cursive style.

**Gerry Leighton**

## **Annex A: List of recipients**

Abellio Greater Anglia  
Access Disputes Committee  
Alliance Rail Holdings Limited  
Arriva Trains Wales/Trenau Arriva Cymru Limited  
Association of Train Operating Companies  
Bombardier Transportation UK Limited  
c2c Rail Limited  
DB Regio Tyne & Wear Limited  
DB Schenker Rail (UK) Limited  
Department for Transport  
Devon & Cornwall Railways  
Direct Rail Services Limited  
East Coast Mainline Company Limited  
East Midlands Trains Limited  
Eurostar International Limited  
First Capital Connect Limited  
First Greater Western Limited  
First ScotRail Limited  
First/Keolis Transpennine Limited  
Freightliner Heavy Haul Limited  
Freightliner Limited  
GB Railfreight Limited  
Glasgow Prestwick International Airport Limited  
Grand Central Railway Company Limited  
Heathrow Express Operating Company Limited

Hitachi Europe Limited  
High Speed One (HS1) Limited  
Hull Trains Company Limited  
London & Birmingham Railway Company Limited  
London & Continental Railways Limited  
London & North Western Railway Company Limited  
London & South Eastern Railway Company Limited  
London Overground Rail Operations Limited  
London Underground Limited  
Merseyrail Electrics 2002 Limited  
Network Rail Infrastructure Limited  
North Yorkshire Moors Railway Enterprises plc  
Northern Rail Limited  
Rail Express Systems Limited  
Rail Freight Group  
Southern Railway Limited  
Stagecoach South Western Trains Limited  
Stobart Rail Limited  
The Chiltern Railway Company Limited  
Transport for London  
Transport Scotland  
Venice Simplon-Orient Express Limited  
Welsh Assembly Government  
West Coast Railway Company Limited  
West Coast Trains Limited  
XC Trains Limited  
Centro

Crossrail Limited

Merseytravel

Metro (West Yorkshire Passenger Transport Executive)

Passenger Transport Executive Group

South Yorkshire Passenger Transport Executive

Strathclyde Partnership for Transport

Transport for Greater Manchester

## Annex B: General Approval (Stations) 2010 – proposed changes

1. **Change of station name** – we propose that a change to a station name should be included in the General Approval (Stations) as a “permitted modification”. We consider station name changes to be non-contentious given the Station Change consultation process the industry must undertake in accordance with the Station Access Conditions before any consequential changes to station access contracts are put to ORR for approval. It should be noted that we expect franchise/concession awarding authorities to be consulted in such changes.
2. **Car park permits** – paragraph 23 in Annex 9 (Miscellaneous Provisions) to the National Station Access Conditions relates to the number of car parking permits available for Network Rail to park at a station. We propose that a change to the number of car parking permits should be included in the General Approval (Stations) as a “permitted modification”.
3. **Introduction of revised/alternative template Station Access Conditions** – last year we worked with DfT, Network Rail and ATOC to facilitate arrangements for DfT’s proposal that a franchised train operator should have full responsibility for the management and operation of its stations under a full repairing and insuring lease. This resulted in a second set of template SACs being developed to support these new leasing arrangements - the National Station Access Conditions 2011 (FRI Leases). However, approval of any access agreements incorporating these new FRI SACs is not permitted under the General Approval, because the definition of “Station Access Conditions” in the General Approval only makes reference to the National Station Access Conditions (England & Wales) or (Scotland) 1996 and the Independent Station Access Conditions (1996 edition, incorporating amendments with effect from 4 February 2009).

The current version of the National Station Access Conditions 2011 (FRI Leases) already requires some revision. However, our approval early last year of Agreements incorporating them highlighted the limitation created by the current definition of “Stations Access Conditions” in the General Approval (Stations).

We propose to consider whether it is possible to amend the definition of “Station Access Conditions” in the General Approval (Stations) so that incorporation into a Station Access Agreement of new or revised template Access Conditions that have been endorsed by ORR will be permissible under the terms of the General Approval.

4. **Expiry date of agreements** – we propose that changes to the expiry date of Station Access Agreements should be included in the General Approval as a “permitted modification”. When entering into a new Station Access Agreement, parties are able to insert the expiry date into the template Agreement as this is one of the “permitted departures” allowed by the General Approval. If parties wish subsequently to alter the expiry date of their Agreement, ORR’s specific approval must be sought. We can see no reason why this should be the case and our proposed change to the General Approval (Stations) seeks to address this.
5. **Revision of paragraph 6.5.1(b)** - it has been brought to our attention that the reference in this paragraph to Clause 6.1.2 of the Station Access Agreement (dealing with Access Charging) is incorrect. The correct reference should be to Clause 6.1. This results in a consequential change being required to the Station Access Agreement (single station) and (multiple station) – see Annex D below.

We propose the following revised wording for paragraph 6.5.1(b) of the General Approval (Stations):

“(b) the Percentage of Common Charges payable pursuant to Clause 6.1 set out in paragraph 9 of Schedule 1 or of Schedule Part 1, as applicable, in conjunction with the deletion of the words “as at the Commencement Date” at the end of Clause 6.1; or”.

**Questions:**

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| <ol style="list-style-type: none"><li>1. Do you agree with the changes we have proposed in paragraphs 1 to 5 above?</li><li>2. If you disagree with any of proposed changes, please explain why.</li><li>3. Addressing our proposed changes in the order we have set them out in paragraphs 1 to 5 above, do you have any comments?</li><li>4. Do you have any suggestions for additional changes to the General Approval (Stations) 2010 that you wish us to consider?</li><li>5. Are there any other comments you wish to make in relation to the General Approval (Stations) 2010?</li></ol> |
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## **Annex C: General Approval (Depots) 2010 – proposed changes**

- 1. Change of depot name** – in line with the suggestion that we have made that a change to a station name should be included in the General Approval (Stations) we propose that changes to a depot name should be included in the General Approval (Depots) as a “permitted modification”. This will ensure consistency between the two General Approvals for a modification that we do not consider is contentious.

### **Questions:**

1. Do you agree with the change we have proposed in paragraph 1 above? If you disagree with the proposed change, please explain why. In addition, please provide any comments you have on our proposed change.
2. Do you have any suggestions for additional changes to the General Approval (Depots) that you wish us to consider?
3. Are there any other comments you wish to make in relation to the General Approval (Depots) 2010?

## Annex D: proposed amendments to our template access agreements

1. **Clause 5.2.1(d) of the Station Access Agreement (multiple stations)** – it has been brought to our attention that the wording relating to “loss of licence” in this template agreement is incorrect. We propose to correct the drafting as follows:

“(d) Loss of Licence: The Beneficiary ceases to be authorised to be the operator of trains by a licence granted under section 8 of the Act or by a licence or SNRP granted or recognised under the Railway (Licensing of Railway Undertakings) Regulations 2005 (whether by revocation or otherwise) unless it is exempt from the requirement so to be authorised;”.

2. **Schedule 1: Address of Secretary of State** – we have noted that the address of the Secretary of State is out of date. We propose to update it to:

The Secretary of State  
Department for Transport  
33 Horseferry Road  
London  
SW1P 4DR

3. **Schedule 1, paragraph 9 of the Station Access Agreement (single station) and (multiple station)** - deals with the Percentage of Common Charges payable. It has been brought to our attention that this paragraph contains an incorrect reference to Clause 6.1.2 of the Station Access Agreement. The reference should be to Clause 6.1. We propose to amend the Station Access Agreement (single station) and (multiple station) to include the correct reference.

### Questions:

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| <ol style="list-style-type: none"><li>1. Do you agree with the changes we have proposed in paragraphs 1 to 3 above?</li><li>2. If you disagree with any of the proposed changes, please explain why.</li><li>3. Addressing our proposed changes in the order we have set them out in paragraphs 1 to 3 above, do you have any comments?</li></ol> |
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4. Do you have any suggestions for additional changes to our template documents that you wish us to consider?
5. Are there any other comments you wish to make in relation to our template documents?