

**Paul Carey
Office of Rail Regulation
One Kemble Street
LONDON
WC2B 4AN**

24 August 2011

Dear Paul,

Review of Part J (changes to access rights) of the Network Code – emerging conclusions

- 1.1 Alliance is fully supportive of a mechanism that allows the best use of the available capacity on the network.
- 1.2 We note that a main focus of Part J relates to *quantum* of rights and their removal either voluntarily (J2) or by way of the failure to use process (J4). Alliance recognises that this is the most important factor when proposing to remove freight rights. However, we believe that other rights associated with the quantum should be subject to Part J. This is most relevant when looking at the removal of rights of passenger train operators.
- 1.3 Alliance believes that in addition to quantum rights all associated rights should be either amended or removed. For example, where an operator surrenders a quantum right but that quantum right also has interval protection, this too should be amended. In addition station calling patterns of some operators should be subject to part J where these are not used as they can restrict the efficient development of the network.
- 1.4 In relation to a Failure to Use (J4) Alliance believes that regular reviews on all access rights should be undertaken by Network Rail and failure to use notices issued where rights are not used. In the current proposal it is Network Rail's discretion whether to use its right to issue a failure to use notice. We believe that this should be mandatory. We believe that in some instances Network Rail would be reluctant to use J4 in the interests of maintaining good customer relations. This is a conflict that can be addressed by making rights reviews and issuing failure to use notices mandatory.

Yours sincerely

Ian Yeowart