

Rail Strategy Team
Rail Directorate

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Abigail Grenfell
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Your ref:

Our ref:
NRS11-036

Date:
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By email
Abigail.grenfell@orr.gsi.gov.uk

Dear Abigail

Amending licences to give passengers the information they need to plan and make journeys – a consultation

Thank you for the opportunity to consider this proposal. Transport Scotland welcomes the focus on the provision of information to passengers, and the industry initiatives to improve the current situation. The overall aim of all initiatives should be to provide passengers with access to clear, concise, accurate and timely information which they can use to make an informed decision about their travel options.

We agree that including requirements into the various licences would help the industry to recognise the importance of passenger information, however there are a few issues which we consider require to be addressed, both in general terms and with reference to the specific questions posed in the consultation document. These are set out in the attached annex to this letter.

I hope you find this helpful.

Yours sincerely

A handwritten signature in blue ink that reads 'Frances Duffy'.

Frances Duffy
Director of Rail

Annex

Amending licences to give passengers the information they need to plan and make journeys – a consultation

General observations/comments

Codes of practice

Transport Scotland is pleased that the industry is taking the initiative in developing a Code of Practice for passenger information. This helps to facilitate a common, clear understanding of what is required.

We are also broadly supportive of correlating the Code to the licence conditions: such arrangements would be much more responsive to changing circumstances rather than having to amend the licence itself on each occasion.

The terms of any Code will have a fundamental effect on the legitimate expectations of passengers, franchising authorities and funders, and therefore should be subject to a broad consultation before being accepted by the ORR. It should also be made publicly available once it has been agreed.

Transport Scotland would also welcome a commitment from the ORR that a separate code for Scotland would be considered should there be sufficient evidence that this would be of greater value to passengers and other users of the network in Scotland.

Sections 4.8 of the proposed licence appears to indicate that the ORR has sole responsibility for requesting a revision of the Code of Practice. We would suggest that it is also appropriate for other parties to be able to instigate such a revision, in particular the franchising authorities.

Network Rail licence

We agree that Network Rail's licence should be amended. The Network Rail responsibilities should also include keeping the rail industry systems that feed customer information systems up-to-date with regard to cancellations and other timetable information for both planned and unplanned disruption.

Passenger licences

In principle we agree with the concept of amending the train operator licence to secure the provision of appropriate, accurate and timely information to allow passengers (and prospective passengers) to plan their journeys.

We agree that the current obligation on providing information to intermediaries within 3 weeks should be tightened up to ensure that information is supplied quickly and efficiently. However we are concerned that the terminology "as soon as reasonably practicable" is too vague and we would welcome further consideration on how the expectation could be more clearly defined.

Monitoring and fines

We would welcome further detail on how the ORR proposes to monitor the new licence conditions, in particular the regularity with which you explore performance. We would also welcome clarification on how this function will be carried out with respect to services in Scotland.

We would also welcome further detail on the ORR's enforcement regime, in particular where there is a clear failure to meet the licence conditions. We would be keen to explore with you arrangements where there is a clear line of sight between enforcement measures and passenger benefits.

We would also welcome a discussion with you on your approach to circumstances where a failure has a geographic dynamic to it, for example where it has been confined to the Scottish network.

Coordination with franchises and other contracts

Transport Scotland regards the passenger information provision requirements as set out for the licences as a minimum by which operators need to comply. We would also wish to leave open the option for franchising authorities and other contractors to specify a higher level and additional requirements if they so wish. These additional requirements would be subject to monitoring and enforcement by the franchising authority or contracting authority.

Paragraphs 45 of the consultation document states that the ORR would coordinate with the franchising authority on enforcement to avoid double jeopardy for the franchisee. However, the proposed drafting of the extended TOC licence condition does not make mention of consultation with the Franchising Authority in this regard. This should either be included within the license drafting or the enforcement statement.

Real-time information and information in times of disruption

The momentum behind the development of these proposals is the disruption caused due to the severe weather last winter. We do not think that the proposals as drafted, will in themselves make a major difference to the provision of information in these circumstances. However including the provision of passenger information within the licence, will we hope, encourage operators to focus their attention on these matters.

We are responding separately to the consultation relating to real-time information as we see this as central to the success of providing information in times of disruption. In particular, we are concerned that this is not being adequately integrated with information on other public transport modes.

Questions contained within the consultation document

1. Do you agree that there is a lack of clear accountability in the current framework for providing information to passengers?

There is a need to ensure that accountability for providing information, and how that should be provided, is clear. It is however equally important that the accountability to ensure information conditions are met, and how compliance will be monitored and enforced, is clear. In particular in circumstances where there are regulatory and contractual arrangements in place.

Transport Scotland believes that passengers expect timely and accurate information to be provided by the train operators and station operators, and setting this out in the license condition will better record this accountability and also document Network Rail's responsibilities in the provision of information. From correspondence received by Transport Scotland there needs to be a focus on and accountability for real time information provision with operational staff provided with up-to-date information that they can communicate to passengers.

2. Do you agree that licences are the best place to set out aligned accountabilities for providing information?

Licences are one of the places where aligned accountabilities can be set out.

The proposed change to the licences would mean that passenger information would be considered to be one of the core industry performance objectives. Transport Scotland would welcome improvement in this area.

3. Do you agree the split of responsibilities is sensible?

While we agree that the proposals will clarify the specific roles across the industry there may be some overlapping with franchise requirements and these will need to be agreed with the relevant franchising authority.

4. Are there any other changes in the way the industry handles information for passengers that would complement new licence obligations and help the industry deliver the needed improvements?

In some circumstances third parties have to pay in order to access real-time information from the rail industry. This can serve to restrict the development of integrated public transport information systems, which can act as a barrier to improved passenger services and the growth of the rail market. While we accept that in some commercial circumstances it may be appropriate for the rail industry to charge for providing such information (particularly where there are development and operational costs incurred) we would argue that where it is clearly in the travelling public's interests, such information should be provided to a third party free of charge.

The release of Arup's (independent reporters), report into Passenger Information During Disruption (PIDD) with its recommendations will put pressure on the TOC's to improve their obligations to passengers. There could be an integrated approach with this and the PIDD to ensure that any changes are coherent and the accountability is clear.

5. Do you have any suggestions to improve the proposed licence drafting?

Yes:

TOC licences

4.7 The licence holder shall, unless the ORR (independently or at the reasonable request of a franchising authority) otherwise consents, publish one or more code(s) of practice or other documents setting out the principles and processes by which it will comply with the general duty in condition 4.2, and / or the franchise agreement.

4.10 ORR shall not make any direction under conditions 4.8 or 4.9 without first consulting the licence holder and appropriate franchising authority.

Network Rail licence

2.1 The purpose is to secure the provision of appropriate, accurate and timely information relating to planned and actual movements of trains on the licence holder's network to enable train operators to meet their information obligations to passengers and prospective passengers, including where there is planned, and unplanned, disruption.

6. Who do you think should be covered by these proposals?

As suggested, TOCs, NR, Station operators.

We agree with the proposals and think that it is sensible to omit charter operators from the changes to passenger licences as they do not sell tickets for train services in the national timetable.

7. What impact do you think these proposals would have?

The proposals are welcomed by Transport Scotland and will provide clarity to the current framework.

We would hope that the provision of information is recognised as a crucial part of an efficient, customer focussed railway and therefore recognised as an asset, along with a company's physical assets and staff.

8. What extra information about how these conditions would work in practice would be useful?

Details of the enforcement regime need to be provided, and this should include how the data will be disaggregated for Scotland.