

From: Andrew Cooper, Managing Director, CrossCountry
To: Abigail Grenfell, ORR
Sent: Sun 19/06/2011 22:07
Subject: Proposal to amend licence conditions in respect of passenger information

Dear ORR

Thank you for the opportunity to comment on your proposed changes to licences. We have held back from responding earlier because of the uncertainty about the conclusions of the VFM study and the progress being made with the PIDD initiative. There are implications in what you propose for the DfTs approach to new franchise contracts. It is becoming clear that we were right to hold back with the recommendation from the McNulty study that there needs to be greater collective governance of the industry, the recent discussions at the National Task Force calling for a review of progress with PIDD and fitness for purpose, and the delay in defining the ITT for the West Coast franchise. One might conclude that these matters should be fully taken into account and that any early revision to licence conditions would be unwise given the apparent catalyst for your change proposal was a reaction to problems last winter.

The intent of the licence changes are welcome. We believe passionately in the need to give good service to our passengers at all times. We have systems, processes and equipment aimed at supporting our people achieve that and it remains a focus in all that we do. Our franchise was let on the promise of good use being made of significant advances in technology to make rail travel easier at all times. We believe we have made good progress. We would be pleased to take you through the progress we have made. We have also brought levels of train service performance at CrossCountry to record levels and this clearly eases uncertainty about services. We therefore share the ORR view of the importance of providing good information to passengers, particularly at times of service disruption. We endorse the objective set out in your consultation of providing "good quality information about train services to all passengers across all timescales and consistently across all media before they travel, at point of sale and during their journey". We believe we are making good progress, ourselves and with industry colleagues.

We are however concerned that a move to enforcement of such good practice through licence conditions, may not be appropriate. The manner in which TOCs handle disruption will rightly vary according to the role they fulfill and the services they operate. It is not necessarily the case that a change to licence conditions impedes such varied and appropriate responses, but it would force the ORR into a more judgmental role than normal – there is not simple pass/fail and if there were, it would be likely to vary across the country. CrossCountry is a good example of the variety of response to disruption. With a 30 minute frequency service across the country, an emergency timetable is something we do not contemplate. It actually exacerbates problems for

customers. The recent clamour for emergency timetables could easier persuade those taking an overview, that such things are essential! The approach to managing disruption and communicating such will vary significantly – on many radial London routes, many passenger journeys will be co-terminus with the train service, whilst for CrossCountry some 45% of our passengers use two trains to complete their journey. Handling information flows and the disruption to journeys may require very different responses.

There is nothing wrong in having a licence condition which specifies the objective to be achieved but one has to have a high degree of confidence that the assessment of achievement will be fair and appropriate.

We have concerns about assumptions made over the need for and availability of funds in your proposal. It certainly considers the Network Rail position but does not give equal thought the position of TOCs reliant on the fare box.

We know only too well that commentators and others with a role in the industry are quick to recommend actions which are not sound commercial propositions. Given the recent tendency (expressed above) for a one size fits all solution to last winter's problems, it is possible that costs will be forced on TOCs because the actions they support are seen as national good practice. Franchisees take on output obligations for a fixed level of taxpayer support or premium. In competitions for franchises there is an opportunity for the DfT to define outputs on passenger information, which has been done. If there is a desire to vary this commitment, there is a Change mechanism in the Franchise Agreement to do this. We are constantly looking at ways to offer improvements in our service to passengers, not mandated in a Franchise Agreement, but these are naturally driven by commercial considerations given the competitive nature of franchise competitions. We cannot easily capture the benefits of such quality improvements because of fares regulation and sometimes the requirements of the T&SA. We note that the McNulty study pointed out this misalignment of incentives.

We have a concern that the licence as drafted will from time to time put TOCs on the horns of a dilemma. It was in practice encourage a TOC to put compliance with the information obligation ahead of any other consideration. There will be difficult instances where a trade-off will exist between getting accurate information to passengers, and the operational management of the trains for the benefit of passengers. As mentioned earlier, confidence in judgement exercised and policy practiced by ORR will be critically important for us in considering this new situation.

With the number of third party retailers now operating in the market, one cannot ignore the role they have in ensuring passengers get accurate and timely information and the support they may subsequently need on their journey. We remain concerned that they are often content to sell tickets and not provide sufficient follow up assistance, leaving this to train operators. Your proposal appears to be aimed at matters further down the 'journey chain' but customers may not make such distinction.

We would be pleased to discuss matters with you further when you have considered all the responses to your proposal. As a franchise operator mid way through our term, these proposals are an important issue for us.

Andrew Cooper
Managing Director, CrossCountry