

Sukhninder Mahi
Office of Rail Regulation

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via email

Our ref:
NRS12-030

Date:
12 June 2012

Dear Sukhninder

Consultation on changing the ORR's penalties statement

Thank you for the opportunity to consider this consultation.

In responding to the consultation on a greater role for the ORR in regulating franchises in England and Wales in May last year, I outlined among other things our long-held concerns about the effectiveness of the ORR's current enforcement policies and in particular whether the levying of regulatory fines reflected the best outcome for passengers and freight customers.

While in our view it has taken the ORR far too long to consider this issue in detail, during which time many opportunities have no doubt been lost, we welcome the proposed changes to the penalties statement which will increase the scope for improvements for rail users in Scotland as an alternative to a financial penalty.

I would also offer the following, more detailed comments:

- any reparatory work should demonstrably have the interests of passengers and freight customers at its centre, with clear added value to the experience of the rail user;
- we would seek an assurance from the ORR that the value of reparatory activity is truly '£ for £' against what the level of the financial penalty would have been, and that the processes through which the ORR assess this will be open and transparent;
- in developing proposals for reparatory activity, we would expect licence holders to seek input and views from funders, rail users and other interested parties. Again, this process should be inclusive and transparent;
- in order to maximise value for money, where possible any reparatory activity should look to build upon existing or planned works as specified through the Periodic Review processes and/or current franchise agreements; and

- the current enforcement policy has been effective in terms of the reputational consequences for licence holders. We would seek assurances from the ORR that this will continue under the new arrangements: we would not wish to see a diminution in the impact of the ORR's proactive approach to informing the public of any breaches and subsequent punishments.

I hope the above is helpful, and I am content for this response to be published on your website.

Yours sincerely

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

Steven McMahon
Head of Rail Strategy