

Approved minute of the Additional ORR Board meeting – 24 November 2011 09:00 – 11:00, room 2, One Kemble Street, London (considered formerly as part of Board awayday agenda)

Board present:

Non-executive directors: Anna Walker (chair), Peter Bucks, Mark Fairbairn, Mike Lloyd, Stephen Nelson, Ray O'Toole and Steve Walker.

Executive directors: Richard Price (chief executive), Michael Beswick, Michael Lee, Ian Prosser, and Cathryn Ross.

Also in attendance: Juliet Lazarus (legal adviser), Ken Young (director, external affairs), Sam McClelland Hodgson (board secretary up to item 12), Lynda Rollason, (director, Corporate Services), Chris Simms, (LS) Graham Richards (RPP), Abigail Grenfell (RPP) Sam McClelland Hodgson (Board Secretary), Ronan Devaney (assistant board secretary)

Item 1: Apologies for absence: An apology for absence was received from Tracey Barlow.

Item 2: Declarations of interests: None received relevant to this item

Item 3: Passenger information during disruption licence proposals

1. Further to the paper provided we received an update on developments since the paper was prepared.
2. *(Paragraphs 2 – 8 to be exempted from the published minute as it contains sensitive information)*
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4. *(Paragraphs 2 – 8 to be exempted from the published minute as it contains sensitive information)*
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7. *(Paragraphs 2 – 8 to be exempted from the published minute as it contains sensitive information)*

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9. We considered the options set out in the board paper; a new licence condition in all current TOC licences or Industry self-regulation with independent and transparent scrutiny.

10. In weighing up our options, we considered the resource implications associated with each of them. We would require resources under both options; these included:

- Resources to monitor the new code– same under both options. We would monitor with or without new licence conditions.
- The cost of independent validation – it is not clear who would pay for this – us or the industry
- More enquiries from public and press were also anticipated. There would be an expectation from passengers, as well as;
- if a reference was made a team of 2-3 staff would be needed to ensure the case was well made. Handling a reference would absorb significant senior management time.

11. We noted that each TOC as a licence holder had a separate licence and therefore had the right to make a referral individually to the Competition Commission.

12. Having fully considered and taken account of the full range of our legal duties, the options and information presented to the Board and the responses to our March 2011 consultation, and further discussion with the industry; we concluded that enforceable licence obligations were necessary to ensure there was clear accountability on behalf of rail users to deliver the promised improvements in the short term and to incentivise continued commitment to improving passenger information in the longer term.

13. There was a general view that we were serious about putting passengers at the heart of our regulation, action on passenger information during disruption was very important. Our approach was in effect to say that the industry's code of practice was a minimum standard for all players.

14. We agreed however that, in response to the Industry, some changes be made to the proposed licence obligations and that a supporting regulatory statement would

be developed to set out more fully how we would monitor and enforce the proposed obligations.

15. We also strongly agree that planning for and delivering better information should be done by the industry, and its leadership groups such as RDG, using its knowledge of its customers' needs. We needed to safeguard against the regulator becoming the primary driver of information for passengers. Our action should be presented as an industry led solution backed by regulatory action if anyone failed to meet the code. The industry needed to be responsible and accountable to deliver the code effectively.

16. The Board would be kept abreast of outcomes of this decision and we would need to ensure that the context of our passenger role and our industry reform work was consistent with this decision.

Anna Walker

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Chair

Minutes approved by the Board 17 January 2012