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Director of Strategy, Policy and Reform



Jake Kelly, Group Director, System Operator,
Network Rail
Tim Shoveller, Managing Director, North West and
Central Region, Network Rail
Ian McConnell, Managing Director, West Midlands
Trains
Richard Allan, Managing Director, Chiltern
Railways

5 June 2023

Dear Jake, Tim, Ian and Richard

Timeliness and quality of track access applications for May 2023 timetable change in North West and Central Region

I am writing to inform you that ORR will carry out a review into the late submission of West Midlands Trains and Chiltern Railways access applications for 21 May 2023. They did not contain supporting performance evidence, which for changes of this scale meant it was difficult to assess whether the industry had suitably mitigated the risk of performance deterioration, from the new patterns of service.

ORR's [Guidance](#), for submitting access applications, states that Passenger operators should aim to have rights approved by ORR before a timetable is published, to align with Network Code contractual timescales. This ensures services with access rights can be reflected in the timetable at least 12 weeks in advance (T-12). This underpins passengers' confidence to buy advance purchase tickets. These timescales were not met.

We note that timetable performance has been good so far. However, failure to adhere to the prescribed timescales increases the risk of adverse outcomes for passengers and industry. Industry cannot collectively continue to prepare for timetable change at such late notice.

Events leading to May 2023

The Chiltern Railways 1st Supplemental Agreement was informally submitted by the parties for ORR approval on 5 May 2023. The West Midlands Trains 16th Supplemental Agreement was informally submitted by the parties on 27 April 2023. Both applications were supported by Network Rail under Section 22 of the Railways



Act and involved significant changes being made to the existing timetable for services around Birmingham on 21 May 2023.

Network Rail and the affected parties only provided evidence of performance assurance on 16 May. Having weighed the options, we concluded that rejection of the applications would have led to significant disruption of the timetable and the cancellation of services. Our assessment was that rejecting the applications would have ensured extended disruption for passengers, whereas allowing the timetable change to proceed only risked this occurring.

Therefore, we asked the parties to amend the length of the requested access rights to only one timetable period when formally submitting the applications. ORR approved the applications for one timetable period on 19 May under Section 22 of the Railways Act 1993.

Next Steps

Our initial review will assess whether Network Rail, Chiltern and West Midlands Trains are addressing the issues which led to the late applications. Equally, it will ensure the parties are taking necessary steps to provide robust performance assurance for the December 2023 and future timetables. This will inform what, if any, further regulatory steps or formal investigation we may need to consider.

We request Network Rail, Chiltern and West Midlands Trains co-operate with us to understand what occurred in these cases. We will write to you with specific questions so that you can provide:

- a detailed explanation including supporting information as to why these cases were submitted late and without performance assurance; including any factors inside and outside of your control; and
- the planning arrangements, and remedies where appropriate, which are being taken to ensure similar issues do not occur for the December 2023 timetable change and for 2024 timetables;

To expedite this review, we will arrange meetings to support each organisation providing written responses to our questions by 1200 **on Friday 23 June**. Please ensure the responsible Director in your organisation is available.

A copy of this letter will be placed on our website.

Yours sincerely

Stephanie Tobyn