

RAILWAYS ACT 1993 (as amended)

SECTION 55

PROVISIONAL ORDER

- A. The West Coast Route Modernisation (“WCRM”) programme was developed to deliver a strategy by the Strategic Rail Authority in 2003, and funding and output requirements on Network Rail Infrastructure Limited (“Network Rail”) were established by the Rail Regulator in the 2003 access charges review. A key output of the WCRM is the provision of infrastructure capability to deliver significant timetable improvements currently scheduled for December 2008 (“the Output”). Delivery of the Output is a reasonable requirement under condition 7 of Network Rail’s network licence which means that Network Rail must take such steps as are necessary or expedient to achieve it to the greatest extent reasonably practicable having regard to all relevant circumstances.
- B. It appears to the Office of Rail Regulation (“ORR”) that Network Rail is likely to contravene Condition 7 of its network licence in respect of its delivery of the Output.
- C. Having had regard to the matters set out in section 55(2) of the Railways Act 1993 as amended (the “Act”), ORR considers it is requisite for it to make a provisional order for the purpose of securing Network Rail’s compliance with Condition 7.
- D. ORR is satisfied that:-
- (a) the duties imposed upon it by section 4 of the Act do not preclude the making of this order, and

(b) the most appropriate way of proceeding is not under the Competition Act 1998.

E. Pursuant to section 55(5B) of the Act ORR considers that, although it is satisfied that Network Rail has agreed to take, and is taking, all such steps as appear to ORR for the time being to be appropriate for Network Rail to take for the purpose of securing or facilitating compliance with Condition 7, it is appropriate for ORR to make a provisional order.

Therefore:

1. In respect of the contravention, pursuant to section 55 of the Act, ORR requires Network Rail to produce and deliver a plan, on which it has consulted persons providing services relating to railways, Passenger Focus, London TravelWatch and relevant funders. That plan must:

- (a) be delivered to ORR by 31 March 2008;
- (b) demonstrate how Network Rail will deliver the Output in accordance with the reasonable requirements of persons providing services relating to railways and relevant funders to the greatest extent reasonably practicable having regard to all relevant circumstances (“the Delivery”);
- (c) set out milestones for the Delivery including design and key commissioning dates;
- (d) take full account of the risks associated with achieving the Delivery, including the availability of materials, design and/or design approvals, possessions, on-track plant, competent and sufficient manpower, occurrence of adverse weather conditions, and operational and timetabling resources to reduce impact of possessions on operators; and
- (e) contain adequate contingency plans in respect of the Delivery.

2. This document constitutes a provisional order made under section 55 of the Act.
3. This order has effect on and from 28 February 2008 and shall cease to have effect (if not previously confirmed under section 55 of the Act) on 27 May 2008.



Bill Emery

Chief Executive, Office of Rail Regulation

28 February 2008