



Association of Train Operating Companies

Ms Rosie Clayton
Competition & Consumer Policy
Office of Rail Regulation
One Kemble Street
London
WC28 4AN

5th August 2015

Dear Ms Clayton,

Thank you for the opportunity to respond to the Consultation on the Guidance for the Complaints Handling Procedures. I am writing on behalf of the ATOC Ltd (the Association of Train Operating Companies) which represents the interests of the franchised train operating companies (TOCs) that provide services on Great Britain's rail network.

Question 1

Do you agree with our overall purpose and scope? In particular, do you think that the way that we have distinguished feedback from complaints is helpful?

We agree with the overall purpose and scope of the guidance. The value of offering an easily accessible contact handling service is well-understood by the industry.

The distinction between complaints and feedback is helpful to a point. As ATOC understands it, the proposal is that a complaint is: "any expression of dissatisfaction by a customer or potential customer about service delivery or company or industry policy" that is directed to a TOC *except* such expressions received through social media channels *unless* "the circumstances of the complaint on social media lend themselves to investigation".

The above means that unless a customer or TOC identifies that a social media contact requires investigation it will sit beyond the scope of the Complaints Handling Procedure. This means that the Guidance excludes social media from the list of Complaint Access Routes (3.9). This approach is pragmatic and is aligned with the way in which many of our members currently manage this type of customer contact.

TOCs derive great benefit from using Twitter and Facebook as channels to broadcast news of disruption and promotions; this social media presence inevitably engages TOCs with an increasing number of social media complaints. There are sound reasons for moving some customer complaints, such as those about individual members of staff, to more discreet channels (such as email); however there are other times when the public resolution to a grievance on Twitter or Facebook addresses the concerns of other customers who might otherwise complain. So reputationally it is risky for TOCs to deprioritise such a high profile source of contacts; discounting all complaints received via social media is not a tenable position in the long term.

At present, social media management systems (such as Hootsuite, Bizvu, Conversocial) do not deliver the capacity to fully meet industry requirements, particularly with regard to the

provision of vital MI. This means that the resource implications are significant and need to be taken into account by the Department for Transport in its specifications of future franchises. ATOC is aware that the ORR is proposing to establish a Social Media Working Group to understand the opportunities and challenges of social media. ATOC is supportive of this approach and will liaise with our members and the ORR to progress this.

Question 2

Do you agree that the licence holder should coordinate responses relating to third party suppliers? Please indicate in your response what the current practice is and identify any challenges arising from this proposed requirement? Do you agree with our reasoning contained above? Are there any other categories of third party supply that you consider should be explicitly covered within this obligation?

Complaints relating to third party suppliers (2.16 – 2.17)

There is a general acceptance in the industry that the overall customer experience is owned by the TOC even when key elements of it (such as replacement bus providers; train-cleaning; catering; revenue protection; web-retailing) may at times be provided by third parties. As a result, TOCs already have arrangements with these providers to respond to provide feedback to Customer Relations teams when complaints are received.

In some instances however, a TOC might decide that it is best for the customer to contact a third party direct. This is the case, for example, with some parking enforcement companies who have well established appeals processes, and provide a full service solution in an area that most TOCs have no expertise in. We feel that the Guidance could more explicitly recognise this arrangement by stating that there are situations when customers will be required to directly contact third party suppliers. In such a situation, the contracting TOC would still ultimately own the customer experience by:

- being the point of appeal for customers for dissatisfied with the third party's complaint handling; and
- regularly reviewing contacts received by its contractor to ensure that it is fulfilling its duties in the spirit of good customer service and its contractual obligations

It is also important to note that under the terms of the Guidance as it is currently written, the Independent Penalty Fares Appeals Service (IPFAS) is a third party provider. Given the nature of its service, it would be useful for the ORR to recognise that TOC Customer Relations teams are not able to intervene in correspondence to this body.

Complaints relating to Network Rail (2.19 – 2.21)

Our members recognise that it is their role to be the main interface between the rail industry and the customer; however there is a view that in making TOCs responsible for *responding* to contacts concerning poor track maintenance, over-running engineering works and signal failures, the ORR enables Network Rail to remain distant from the impact of its performance on rail users. This is perhaps a strategic issue beyond the scope of the matter at hand, however, there is a feeling that the ORR could be doing more to involve Network Rail in the Complaints Handling work-stream.

Question 3

Do you agree that the three core standards form a reasonable basis from which

licence holders can develop complaint handling procedures? Please identify any areas, for example:

a. where you would prefer more detail or additional clarity; and/or

b. where you consider the standards do not meet our intention to draft at sufficiently high level for licence holders to develop procedures to suit their own business models and the needs of their passengers. In particular whether the balance between specified obligations and a focus on internal culture and arrangements appears consistent with our stated regulatory approach.

The high level requirements contained within the Guidance seem to allow for the current TOC Complaint Handling Procedures to be aligned with the new guidance without a great deal of change to current processes. The first two of the core standards are not contentious, but we would question to what extent it is viable to manage and measure the organisational culture of a company through its CHP.

Given that the CHP's will be monitored for compliance it is unusual that there is an absence of Key Performance Indicators in the Guidance. It would be useful to have some examples of what TOCs might be required to provide, particularly as the Guidance states that the approaches will vary dependent on each TOC's own business needs (3.1). This is a significant gap in the current document and ATOC would be willing to work with the ORR on this point.

Question 4

Is the guidance around Conducting a full and fair investigation and Effective response and resolution helpful and/or sufficiently clear?

We agree that customers deserve full and fair investigations which result in an effective resolution to their complaints. The content of this section sets out one model of how this is could be achieved, but we would question the need to into this level of detail currently specified. Are the "Six Step Investigatory Process" (figure 5 on page 23) and the "Elements making up an effective response" (figure 6 on page 24) intended to be a check lists? We understand that they are just indicative measures but we would suggest that this level of detail is inappropriate in the Guidance document.

With regard to licence holders giving discretion to customer-facing staff to resolve complaints, we recognise that this is an effective means of quickly winning back dissatisfied customers. Many TOCs have for example, issued key staff with the capacity to authorise refunds or taxis during disruption; likewise standard ticket stock now has space for frontline staff to authorise alternative routes of travel when circumstances merit. However, the guidance also needs to recognise that there will be times when restrictions (often around the capacity to be able to audit decisions, or providing the appropriate equipment) remain in place.

In places, the CHP guidance overlaps with provisions in existing standards which TOCs work to (such as the National Conditions of Railcard Carriage; the Ticketing & Settlement Agreement; PIDD ACOP). It would be appropriate for the ORR to consider the CHP Guidance in light of these standards, including the existing arrangements that support them, and to reference them where necessary to ensure that there is no conflict between the documents.

The industry appreciates that customers who are entitled to remedial action (such as refunds, compensation and alternative rail transport) should not be inconvenienced. The

specific financial arrangements which underpin these arrangements for customers should be agreed between TOCs, and the guidance should contain nothing that would undermine these.

Question 5

Do you consider that a CHP should contain a requirement to have an appeal handling protocol with PF and LTW? Do you agree that we should specify some of the detail including recommended response times? Alternatively, is there other detail that you think should be included?

Including an appeal handling protocol with PF and LTW in every TOCs CHP is acceptable to our members, and this reflects current practice. However, contrary to what is proposed in 3.40, we do not agree that it is useful for PF and LTW to become involved whilst the TOC is still in discussion with the customer. We believe that, as a rule, it is most efficient for either party to escalate matters to PF/LTW once they are of the view that an impasse has been reached.

We agree that PF and LTW should also be required to commit to minimum response times to customers and TOCs. This will ensure that TOCs are guaranteed to receive escalations in a timely manner, and customers are clear as to their response times when dealing with PF/LTW.

Question 6

Are you content with the ORR's minded proposal to drop these two previous requirements? If not give reasons.

Yes.

Question 7

Do you believe our proposed monitoring activities will be effective in ensuring compliance with the obligations? Is there any additional evidence that you would like to see included as part of this process?

Chapter 4 needs to give a definitive description of the ORR's proposition with regard to monitoring and enforcement. It gives examples of what data is *likely* to be monitored, it states the measures that *might* be taken, and explains that the enforcement policy is currently *under review* (footnote 11). These are all key elements of the process and more detailed information is required for ATOC to be able to assess them properly. At this moment the lack of clarity prevents us from providing a more informed view.

The consultation makes reference to the possibility of the ORR using customer data to conduct research and monitoring. Our members have expressed mixed views as to whether or not the current consent a customer gives by initiating contact extends to sharing their data for follow up research. TOCs are supportive of the need to evaluate customer experience so this area will require careful consideration. We understand that there is an evolving proposition as to how this could be managed, and it would be useful to have this set out in the consultation for comment.

Question 8

We ask for comments on our initial approach and its impact, including both any costs and benefits that we do not identify.

We believe that the structure of the consultation itself needs to be carefully considered. The guidance document does not give a full picture of the measures the ORR is seeking to introduce, as a number of these are being developed within the parallel discussions currently being held concerning the Core Data Set. This does not reflect the 'Better Regulation Principles', and draws parallels to recommendations from the Penny Boys independent review of PR13 which recognised the need for well-developed proposals with supporting data and impact assessments on which to consult. Therefore, whilst we welcome the opportunity to give feedback, we would prefer for the entire proposition to be fully worked up in to one integrated package to enable the industry to better assess its potential impact.

There is a strong view among TOCs that the ORR and DfT need to be in alignment on the provisions of the final Guidance. It is essential that the DfT factors in the ORR's requirements when it specifies franchises and does nothing that is incongruent with the Guidance when it negotiates franchises.

Equally the absence of Network Rail (NR) from the provisions of the CHP is perceived to be to the detriment of the overall project, especially in light of NR ability to significantly influence the experience of TOC customers.

Overall, the majority of the recommendations made in the CHP Guidance are already part of many TOCs existing CHPs, so do not give rise to any specific concern. However, other issues raised by the review, social media in particular, have potentially more significant implications and need further detailed consideration.

I trust that this response is useful and we would be pleased to be involved as needed.

Yours sincerely,

John Horncastle
Service Delivery Manager, on behalf of ATOC