



Department for Transport

John Larkinson
Director, Economic Regulation & Consumers
Office of Rail and Road

Sent by e-mail

Dan Moore
Deputy Director, Rail Delivery Strategy
Department for Transport
DIRECT LINE: 020 7944 3638

Web Site: www.dft.gov.uk

23 March 2016

Dear John

East Coast Main Line Connectivity Fund

I am writing in relation to the ORR's upcoming decision on track access rights on the East Coast Main Line (ECML), and particularly in response to your letter of 3 March 2015 regarding the ECML Connectivity Fund (the Fund).

We welcome the ORR's recognition that the particular use of capacity created by infrastructure works could affect the value for money of those works to Government and that, as a result, this should be considered by the ORR in light of its statutory duties during the current decision making process.

You then raise a number of points of detail with respect to business cases. We are not, however, as I explained in my previous letter on this issue, in a position to answer points of detail on this issue, particularly specific aspects of any reappraisal exercise; this is because the range of potential outcomes arising from different ORR decisions is, at this stage, too wide for us to credibly do so. However, in the interests of being constructive, we are able to confirm certain key points, both in regard to the business case position and any necessary re-appraisal process, to ensure our position on this issue is clear.

Business case position

The Fund was intended to provide a funding mechanism for a range of schemes, some of which were not at a high degree of development at the time of the HLOS. The Government's decision to advance the Fund was based on a judgement that many of those schemes were likely to demonstrate satisfactory business cases. This judgement took into account that enhancement to the capacity of the ECML would support delivery of the benefits of the East Coast InterCity Express Programme (IEP), which has a strong business case; as a result, small-medium infrastructure investments which facilitated this were also likely to have a strong business case. The fact that schemes were not at that stage developed but a fund was allocated means that the Government expected further business cases to be developed over the course of CP5. This remains an ongoing process to ensure that the taxpayer is funding schemes which continue to be affordable and value for money.

Any necessary reappraisal process

In light of Sir Peter Hendy's work on the re-consideration of the CP5 investment programme and Dame Colette Bowe's recommendations on governance, it is right and proper, and indeed necessary, for DfT to re-consider decisions in respect of the Fund and to satisfy itself that the assumptions that underpinned the Secretary of State's provisional decision to continue to prioritise the Fund remain valid. Should these assumptions have changed in the interim, to the extent that we no longer believe it is plausible that sufficient individual schemes would demonstrate a satisfactory business case, it is possible that the Secretary of State's decision to support the Fund may change.

Should the ORR decide to admit new open access operators to the ECML, we would review the likely impact of this decision upon the basket of schemes previously proposed by the industry that could be delivered by the Fund.¹ In doing so, we would give particular consideration to the impacts on BCRs, taking account of the abstraction impacts and the implications of the current charging structure. In light of this, we would appraise whether the Fund as a whole would still present a satisfactory BCR.

Concluding remarks

I appreciate that this response lacks some of the specific detail requested in your letter. However, in our assessment there is a fundamental issue in these circumstances; that is that the impacts which we discuss above, inevitably mean that, compared to a base case where the franchised operator uses the incremental capacity created by infrastructure works, it is highly likely that BCRs relevant to the Fund would be detrimentally affected. While, as I mention above, it is not possible at this stage to fully assess the specific impacts, it is this core principle of likely detrimental impact which the DfT considers that the ORR should give weight to when considering its statutory duties during its decision making process.

I would be very happy to discuss this if that would be helpful.

Yours sincerely,

Dan Moore

Dan Moore
Deputy Director, Rail Delivery Strategy

¹ Using standard WebTAG principles and the guidance in the Green Book.