



John Larkinson
Chief Executive

Andrew Haines
Network Rail Infrastructure Limited
1 Eversholt Street
London
NW1 2DN

30 January 2019

Dear Andrew,

Contravention of conditions 1.23 and 2.7 of Network Rail's network licence

Thank you for your letter of 3 January 2019 in response to our proposal to make a final order in respect of the contravention of conditions 1.23 and 2.7 of Network Rail's network licence. Following our consultation, we are now making the final order with no modifications. A copy of the final order is attached in the annex to this letter. Our reasons for making the final order are set out in my letter and notice of 7 December 2018.

We will be monitoring delivery against the actions set out in the final order carefully. Each action must be completed by 1 April 2019. We will continue to monitor Network Rail's compliance with conditions 1.23 and 2.7 of its network licence.

I am publishing this letter.

Yours sincerely

A handwritten signature in black ink, appearing to be 'John Larkinson', written over a horizontal line.

John Larkinson
Chief Executive

Annex A
Final Order

SECTION 55

FINAL ORDER

- A. Network Rail Infrastructure Limited (Network Rail) is required to run an efficient and effective process, reflecting best practice, for establishing the national timetable and any changes to it. These requirements are set out in conditions 1 and 2 of its network licence as set out in Annex 1.
- B. The Office of Rail and Road (ORR) is satisfied that Network Rail is contravening conditions 1.23 and 2.7 of its network licence (“the contravention”) in that it is failing to deliver to the greatest extent reasonably practicable, having regard to all the circumstances, its obligations to:
- a) run an efficient and effective process, reflecting best practice, for establishing a timetable, and any changes to it, so as to enable persons providing railway services and other relevant persons, to plan their businesses with a reasonable degree of assurance and to meet their obligations to railway users; and
 - b) establish and maintain efficient and effective processes reflecting best practice and apply those processes so as to provide appropriate, accurate and timely information to train operators;
- C. Having regard to the matters set out in section 55(1) of the Railways Act 1993, as amended (the Act), ORR considers it appropriate to make a final order for the purpose of securing Network Rail’s compliance with conditions 1 and 2.
- D. ORR is satisfied that:
- a) the duties imposed on 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. Having regard to all the circumstances and, in particular, the factors set out in section 55(3) of the Act, it does not appear to ORR that it is requisite that a provisional order be made.
- F. ORR need not consider, under section 55(5B) of the Act, the appropriateness of the making this order because:-

- a) ORR is not satisfied Network Rail has taken, 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 conditions 1 and 2; and
 - b) ORR is not satisfied that the contravention will not adversely affect the interest of users of railway services or lead to an increase in public expenditure.
- G. ORR gave notice under section 56 of the Act of its proposal to make a final order and has taken into consideration all representations made and not withdrawn in relation to the proposed order.

Therefore:

1. In respect of the contravention, pursuant to section 55 of the Act, ORR requires Network Rail to take all necessary steps to deliver to the greatest extent reasonably practicable, having regard to all the circumstances, its obligations to:
 - a) run an efficient and effective process, reflecting best practice, for establishing a timetable, and any changes to it, so as to enable persons providing railway services and other relevant persons, to plan their businesses with a reasonable degree of assurance and to meet their obligations to railway users; and
 - b) establish and maintain efficient and effective processes reflecting best practice and apply those processes so as to provide appropriate, accurate and timely information to train operators.
2. In particular Network Rail shall, to the greatest extent reasonably practicable having regard to all the relevant circumstances:
 - a) Provide ORR with a report by **1 April 2019** setting out how it will continue to run an efficient, effective, fair and transparent process for the timetables due to be published after May 2019. This document should include the following:
 - i. describe how the industry PMO will become embedded into the business as usual activity and how the sales of access rights process will interact with this.
 - ii. explain how Network Rail will play its role in increasing the transparency of the timetable process and decisions to all stakeholders.
 - b) Continue to deliver its T-12 recovery plan and report publicly against it, except to the extent where compliance with this requirement would conflict, to a significant degree, with its duty under condition 1.2 of its network licence. In

this instance, where it is necessary to amend the recovery plan due to a conflict with condition 1.2, Network Rail shall consult with ORR and provide it with a proposed amended recovery plan. Network Rail shall continue to report on the number of late notice changes and ensure that by **1 April 2019**, information on this is available on its website.

- c) Provide ORR with a report by **1 April 2019** setting out how it will, within the CP6 reporting:
 - i. integrate the leading indicators it has identified regarding retention, capability and capacity of staff; and
 - ii. report on the progress of strengthening timetable technology capability, with reference in particular to the £60m programme of improvement works set out within the CP6 Final Determination,
 - iii. demonstrate it is following best practice stakeholder engagement and industry consultation.
 - d) Publish a plan by **1 April 2019** for how it intends to lead the industry review of Network Code Part D and how this plan meets the recommendations set out in the inquiry report.¹
3. Nothing in this order shall be taken to permit Network Rail to breach any licence, contract or other legal obligation.

This order shall have immediate effect.



John Larkinson
Chief Executive

¹ <http://orr.gov.uk/rail/consumers/inquiry-into-may-2018-network-disruption>