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Dear Michael

**Breach of Condition 1 of Network Rail's network licence with regard to operational performance**

As you know, David Higgins wrote to Richard Price on 19 December 2011 to confirm that Network Rail accepts the decision of your Board to find that we are likely to breach Condition 1 of our licence in respect of our failure to meet PPM targets for the long distance sector and that we are currently in breach of the same Condition as a result to meet the target for 'Network Rail delay minutes' per 100 train-kms for freight.

Within his letter David stated that Network Rail had some specific issues relating to the detailed drafting of the proposed enforcement orders. Robin Gisby and I have discussed these issues with you during the course of this week.

As discussed Network Rail is content to accept the draft freight order without amendment. For completeness, however, we believe that Colas Rail should also be invited through the order to join the recovery board. We have since written to all of the freight operators (including Colas) to ask them to join the recovery board and work with us to agree the steps that should be taken by Network Rail to remedy the breach.

In relation to the proposed long distance order, we would request that the deadline for producing the required plan is extended from 28 February 2012 to 30 March 2012. This extension will allow us to align the timescales for the production of the plan with our normal Joint Performance Improvement Plan processes and will allow more time for us to consult with our customers such that we can subsequently assure ourselves (and ORR) that plan (when delivered) will meet their reasonable requirements.

I trust that ORR will agree that the modifications that we have proposed, and in particular the additional time that we are requesting to produce the plan, is appropriate. Robin Gisby or I would be happy to address any further specific questions that you may have.

Yours sincerely



Paul Plummer

