

Michael Scarff
Executive, Stations & Depots Access
Office of Rail and Road
One Kemble Street
London
WC2B 4AN

11 June 2015

Dear Michael

APPLICATION FOR DIRECTIONS UNDER SECTION 17 OF THE RAILWAYS ACT 1993

I refer to Gerry Leighton's letter of 4 June 2015. I understand that you are now responsible for day to day management of this case. I am grateful to you for giving us the opportunity to comment on the representations made to you by the DfT about this matter. Our comments are set out below.

We welcome the fact that the DfT acknowledges that our investment in the airport has assisted in easing some of the aviation capacity pressures in the South East.

We welcome the fact that the DfT has decided to make the service permanent. Irrespective of the actual date on which the DfT confirms that the service is to become permanent, we re-affirm the submission made in paragraph 9 of our response that any review of the 2011 Agreement should not be accelerated to take effect before 18 July 2016.

We note that the DfT does not refute any of the facts set out in our response to Abellio Greater Anglia Limited's ("AGA") application.

The DfT states that "the current revenue share mechanism has fulfilled its purpose of facilitating the development of Southend Airport and its station". This is demonstrably not the case because, as explained in paragraph 30 of our response, we are currently making a substantial loss.

We remain very conscious of the principles on recoverability and the encouragement of investment projects built into the access charging framework¹.

The DfT's stated concern relates to funding of additional capacity "in the medium term". It is not clear to us what the DfT means by "the medium term". However, "the medium term"

¹ In particular under Art 32(3) of the current directive, 2012/34/eu that restates and affirms the long-standing 2001/14 entitlement: "*For specific future investment projects, or specific investment projects that have been completed after 1988, the infrastructure manager may set or continue to set higher charges on the basis of the long-term costs of such projects if they increase efficiency or cost-effectiveness or both and could not otherwise be or have been undertaken. Such a charging arrangement may also incorporate agreements on the sharing of the risk associated with new investments.*" Also recital 66 of the directive which explains the rationale for the entitlement in Art 32(3): "(66) Investment in railway infrastructure is necessary and infrastructure charging schemes should provide incentives for infrastructure managers to make appropriate investments economically attractive."

could unequivocally only relate to a point in time after the expiry of the current franchise. The Department does not identify any services that have required or are likely to require strengthening during the current franchise in addition to those weekend services identified by AGA in their application, the funding of which we addressed in paragraph 26 of our response.

The issue of the sourcing of funding for additional capacity *in the medium term* would obviously not be a relevant factor for considering AGA's application as their application relates solely to their current franchise. Provision for future investment in additional capacity is addressed in particular in paragraphs 9, 31 and 34 of our response. We anticipate an active role in expansion of capacity during the franchise scheduled to commence in October 2016. A copy of our response to the DfT's East Anglia Rail Franchise Consultation is enclosed for your information.

The evidence and economic outcomes to date demonstrate that the use of a revenue sharing mechanism capable of regular review in the medium and long term rather than an ORR issued template has not caused and would not in the future cause any increased investment burden to fall on the taxpayer. Furthermore, in the unfortunate event that there is no growth or a significant downturn in airline activity at the airport, the existence of a revenue sharing mechanism will offer better protection to the taxpayer than an ORR issued template.

Yours sincerely



Andrew Tinkler
CEO