



OFFICE OF RAIL AND ROAD

John Larkinson
Director
Directorate of Railway Markets & Economics

23 January 2018

Andy Mellors
Managing Director
South Western Railway

Dear Mr Mellors

South Western Railway

Compliance with condition 4 of your Passenger Licence and GB Statement of National Regulatory Provisions: Passenger

I refer to the recent exchanges of correspondence and subsequent discussion regarding the performance of the South Western Railway (SWR) franchise in a number of key areas affecting consumers.

I am grateful to you for meeting with my team last week. It was helpful to understand some of the challenges SWR has encountered in producing up to date timetable information and the work it is undertaking with Network Rail to remedy the situation. We provided you with examples of the approach other train operators are taking to providing information about the availability of advance purchase tickets which you undertook to consider further. It was useful to discuss your approach to determining void days in August, changes in compensation arrangements and for making individual claims, and for notifying the changes in season ticket holders' terms and conditions. We will contact you separately about these issues in due course.

However, we continue to have serious concerns regarding the information that SWR provides to consumers about its rail services. The purpose of this letter is to set out those concerns.

At the meeting on 18 January we gave clear examples from the previous weekend of where consumers had not received correct information about SWR's services, and highlighted similar issues for the forthcoming weekend of 20 January 2018. Having raised these issues with you, we expected SWR to have rectified this issue promptly. We were disappointed to note on the following day, 19 January, that consumers were still able to



purchase tickets from your website for trains that were not running on 20 January 2018. In particular, there was nothing on the SWR website booking engine or elsewhere on the website to flag that the information was incorrect. This was in contrast to the National Rail Enquiries website which had an alert, a yellow triangle and exclamation mark, to draw attention to a change in the service, whilst also noting that the timetables shown were wrong.

We are further concerned to note that information on the SWR website for services for the forthcoming weekend, 27 January 2018, is also currently incorrect.

We are therefore concerned that SWR may not be taking all the necessary steps to provide appropriate, accurate and timely information to enable railway passengers to plan and make their journeys with a reasonable degree of assurance.

The ability to be able to plan or make a journey with a reasonable degree of assurance is a requirement of Condition 4 of SWR's Passenger Licence and GB Statement of National Regulatory Provisions: Passenger (SNRPs). The provision of information that affects consumers purchasing decisions such as the provision of inaccurate or false information or the omission of material information may also fall within the scope of the Consumer Protection Regulations¹.

This matter requires your immediate attention and action to ensure that consumers are provided with the information they need to make informed decisions. We require you to set out the immediate steps you are taking to remedy this situation. In particular, giving clear messages on the website when the timetables provided have not been updated including information as to when they will be.

A failure to comply with your regulatory obligations may constitute a breach of Condition 4 of your passenger licence and SNRPs. In this context you should be aware that we have serious concerns, as set out above, relating to SWR's compliance with these obligations. Your response to this letter is likely to be taken into account in any decision we may take as to any necessary further regulatory intervention. This could include a formal investigation of any potential breach of licence, which could lead to us taking enforcement action in accordance with our published economic enforcement policy².

¹ <http://www.legislation.gov.uk/ukxi/2008/1277/made>

² http://orr.gov.uk/data/assets/pdf_file/0018/4716/economic-enforcement-statement.pdf



Next steps

I shall be grateful if you will provide me your response to the matters raised by 5pm Friday 26 January 2018.

Given the seriousness of this matter we intend to publish this letter, and your response, on our website.

Yours sincerely

A handwritten signature in black ink, appearing to read 'John Larkinson', is positioned below the text 'Yours sincerely'.

John Larkinson

CC. David Morris
Alan Penlington
Gerard O'Hanlon