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Dear John,

Access to the East Coast Main Line: next steps

Thank you for your letter to stakeholders dated 12 August 2015. We set out below our comments in response to that letter.

Time to Review Reports

VTEC notes the extremely tight deadlines set out in your letter. We note that you have asked Network Rail for their report by 2 October and that you will publish it. However, there is no indication of the date of such publication.

In any event, VTEC does not accept that 5 working days (at best) is sufficient time to respond to each of the Network Rail report and the CH2MHill report. We anticipate these documents will be lengthy, complex and of fundamental importance to the ORR's decision making process and to our future business. We will need adequate time carefully to consider them and their implications and to formulate our responses.

As a matter of procedural fairness, applicants should be given a reasonable amount of time to review, digest, consider and respond to these reports. VTEC's view is that a minimum of 21 days should be allowed for applicants to provide their responses. In any event, to the extent that earlier deadlines are missed, the deadline for responses from applicants must be extended on a day-for-day basis.

The imposition of unreasonable deadlines risks a repeat of the issues that we had before the hearing in June when insufficient time was allowed to review the reports, and part of the hearing ultimately had to be downgraded to a review of the draft CH2MHill report.

Having said this, we welcome the clear signposting of publication, response and meeting dates in your letter which will allow us to mobilise resources to provide the best response possible.

Performance Modelling

VTEC remains firmly of the view that further detailed performance analysis is essential in order for ORR to make a safe and properly informed decision on these applications. Network Rail's letter of 20th May states that with 8 LDHS trains per hour PPM would worsen by 1.8% to 2.0% without appropriate mitigations. If this is correct it is clearly unacceptable without those appropriate mitigations, and work needs to be done as soon as possible to confirm this PPM estimate and, if it is valid, identify appropriate mitigations.

VTEC notes with interest your decision letter dated 7 August 2015 for access to the West Coast Main Line (WCML). In paragraph 12 of your letter, you helpfully list the ORR's most relevant statutory duties. Your duty to "promote improvements in railway service

performance” tops that list. VTEC is therefore extremely concerned that within a few days of that letter, you conclude that further detailed performance analysis is not essential for you to decide applications in respect of the East Coast Main Line (ECML). We struggle to make sense of this apparent inconsistency in your approach to the two franchises.

The ORR’s stance is particularly odd given the position set out in the ORR Chair’s letter to the Secretary of State on 3 August 2015. In her letter, Anna Walker acknowledges the potential negative consequences that open access competition can bring for passengers and specifically cites “increased performance risks” as her example. VTEC would be very surprised if the Chair of the ORR Board was not interested in better understanding the performance risks on the ECML as this would assist her Board in its decision for access to the ECML.

More recently, on 10 August ORR announced that it had found Network Rail in breach of its licence for poor performance to Southern, GTR and in Scotland. ORR’s own analysis showed that there were “serious weaknesses in the data which informed the new timetables”, that “Network Rail was overly optimistic in estimating and assessing the impact of the new timetable on performance” and that your findings “highlight the need for [Network Rail] to adopt better planning and quality assurance processes before new timetables are implemented”. ORR’s Chief Executive said that Network Rail “needs to develop a much better understanding of the impact of timetabling on the reliability of services” . VTEC agrees. Further performance modelling is absolutely essential to ensure that capacity is not oversold and that it is clearly understood what the likely performance impact would be should open access be granted access to the ECML.

Recent research commissioned by Transport Focus (the “Illuminas” research as shared with the NTF on 13th May 2015) highlights the importance of performance to customers. Whilst this is not surprising, key findings include:

- A punctual service is the key success criterion for passengers.
- Punctuality is a vital prerequisite in building trust between passengers and a train company
- The current punctuality target of 92.5% falls well short of passengers’ ideal - passengers want 98-99% punctuality. Of course the industry is currently failing to achieve the current punctuality target of 92.5%.

DfT has recently challenged the industry to improve its Performance Measurement System (Peter Wilkinson’s letter dated 26 June 2015 to National Task Force), to move away from PPM which has become increasingly distrusted by passengers and to focus on “Right Time” throughout the journey. In short, this challenge is, rightly in our view, about putting customers at the heart of the industry’s systems.

Network Rail’s response, dated 19 August 2015 proposes a workshop of industry experts to consider the performance impacts. We accept that this is worth doing. However, we doubt that a workshop alone will be able to provide sufficient quantitative differentiation between the various options in order to allow the performance impact to be built into ORR’s decision making. Nor is it likely to identify the most appropriate mitigations to any forecast performance worsenment. VTEC is firmly of the view that for the ORR to fail to commission further, more detailed and sophisticated performance analyses, would be contrary to its own statutory duties including to “promote improvements in railway service performance ” and “otherwise to protect the interests of users of railway services”. It would also be contrary to what customers are telling us - that performance really matters.

Infrastructure and Capacity

VTEC is supportive of the ORR’s approach as detailed in your letter to Network Rail dated 12 August 2015.

However there is a clear link between the matters of capacity and infrastructure, and the review of Network Rail's rail upgrade programme by Sir Peter Hendy which the Secretary of State announced to the House on 25 June 2015 which will be announced in the Autumn. As the Secretary of State said, "Important aspects of Network Rail's investment programme are costing more and taking longer". Until Sir Peter reports in the Autumn, there is therefore substantial uncertainty around the affordability and deliverability of the enhancement schemes which NR say are acquired for 8 tph. Clearly Network Rail's response to your questions regarding the cost, timescale and affordability of the works required to accommodate the extra ECML services need to take account of Sir Peter's proposals for the rail upgrade programme. We would like to understand how you intend to bring the two together.

As stated above, VTEC also has serious concerns about the timescales proposed to review and respond to Network Rail's views. One week is insufficient time in the context of a decision that will have significant consequences.

CH2M HILL Economic Report

VTEC does not accept that the tight timescale is sufficient to review and respond to a report which is likely to be lengthy, detailed and of material importance.

There is also a clear link between the CH2M Hill economic analysis and Network Rail's capability and performance work, and these interfaces need to be taken into account in your decision-making programme.

In relation to both Network Rail's response and the CH2M Hill Economic Report, we consider that it is likely to be necessary to have meetings and agree with your suggestions regarding putting placeholders in diaries for a meetings following the publication of each. However, such meetings (so far as necessary) must logically take place after there has been a fair and adequate opportunity to review each of these reports.

Timeline

VTEC does not accept that it is necessary for ORR Board to make a decision on these applications this calendar year. Network Rail's CP5 programme is slipping and is unlikely to be ready in time for extra access rights before early CP6. VTEC notes Alliance's view that a 6 month moratorium on any decision should be taken, and while we would not necessarily support the six month timescale, we agree that there is sufficient time to do the necessary analysis to support your decision rather than rushing to meet an artificial deadline. A decision of this magnitude should not be rushed and the timescales referred to in your letter are, in VTEC's view, over ambitious and could lead to an unsafe decision.

If you require any clarification in relation to the above, please do not hesitate to contact me.

Yours sincerely



Andy Sparkes
Business Development Director