



OFFICE *of the*  
RAIL REGULATOR

**NOTICE OF PROPOSED MODIFICATIONS  
TO RAILTRACK'S NETWORK LICENCE:  
REPORTER, REGULATORY ACCOUNTS  
AND ANNUAL RETURN**

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# 1. *Introduction*

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## **Notice under section 12(2) of the Railways Act 1993**

1.1 This document constitutes a notice pursuant to section 12(2) of the Railways Act 1993 (c.43) ("the Act"). The Rail Regulator ("the Regulator") hereby gives notice that he proposes to modify the network licence granted to Railtrack PLC ("the network licence") under section 8 of the Act by adding:

- (a) new provisions to Condition 15 (Provision of Information to the Regulator and the Authority) (Annex A);
- (b) a new Condition 22 (Regulatory Accounts) (Annex B); and
- (c) a new Condition 23 (Appointment and Role of Reporter) (Annex C).

1.2 The reasons why the Regulator proposes to make the modifications and the effect they would have are set out in Chapters 2, 3 and 4, respectively. Railtrack has consented to the proposed licence modifications.

1.3 The Regulator requests that any representations or objections to the proposed modification to Railtrack's network licence be made in writing before 5.00 pm on 5 April 2001. Please address responses to:

Gill James  
Manager, Railtrack Regulation  
Office of the Rail Regulator  
1 Waterhouse Square  
138-142 Holborn  
London EC1N 2TQ  
[gill.james@orr.gsi.gov.uk](mailto:gill.james@orr.gsi.gov.uk)

1.4 It is expected that copies of all submissions will be published on the ORR website and placed in the ORR library. In addition, the Regulator may quote from or publish extracts from the submissions.

1.5 If respondents wish to make submissions in confidence, these will be accepted but should be marked clearly as such. Where a submission is made in confidence, it should be

accompanied by a statement which shows that a confidential submission has been made and the reasons for making such a submission. The statement should also include a summary of the submission, excluding the confidential information. This statement may be published on the ORR website and placed in the ORR library and the Regulator may quote or publish extracts from it. If respondents do not wish their names to be published, this should be stated in the response.

- 1.6 Following the close of the consultation period on 5 April 2001, the Regulator will consider any representations and objections received during that period. Providing no material objections are raised, the Regulator will proceed with the modification.
- 1.7 Copies of this and other ORR documents referred to in this document can be seen on ORR's website ([www.rail-reg.gov.uk](http://www.rail-reg.gov.uk)) and in the ORR library.

Tom Winsor  
Rail Regulator

## *2. Proposed modification to Condition 15: (Provision of Information to the Regulator and the Authority)*

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### **Background**

- 2.1 In April 2000, the Regulator consulted on proposed changes to Railtrack's information reporting requirements, with the aim of bringing existing arrangements up to date with regulatory best practice through the collection of robust, relevant data in a well structured and easily accessible form<sup>1</sup>. The proposal for an annual return of information, in a form approved by the Regulator, was a key component of these changes. In devising his proposals, the Regulator took account of the experience of the Office of Water Services (OFWAT) in defining and using annual returns from the water industry.
- 2.2 In July 2000, the Regulator summarised representations on the proposed modification, and his response to them<sup>2</sup> (copies of those representations that are not confidential have been placed in ORR's library and on its website). He also set out more detail on the use he expected to make of the annual return. The Regulator said that Railtrack's annual return would need to report on measures of network capability and performance, asset serviceability and condition, and maintenance and renewal activities compared both with previous years, and against the expectations set out in the Regulator's final conclusions of his periodic review.
- 2.3 In October 2000, the Regulator responded to further representations made by Railtrack in the light of the consultation paper published in July 2000. In particular, he set out his expectations that Railtrack would report ongoing levels of renewal activity, both so that this could be taken into account at the next periodic review of Railtrack's access charges if the company failed to deliver the specified outputs, and to provide information that would help establish over time the relation between inputs and outputs<sup>3</sup>.

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<sup>1</sup> *The periodic review of Railtrack's access charges: Provisional conclusions on the incentive framework*, Office of the Rail Regulator, London, April 2000.

<sup>2</sup> *The periodic review of Railtrack's access charges: Draft conclusions*, Office of the Rail Regulator, London, July 2000.

<sup>3</sup> *The periodic review of Railtrack's access charges: Final conclusions*, Office of the Rail Regulator, London, October 2000.

## **Reasons for the proposed modification**

- 2.4 The Regulator considers that the present *ad hoc* approach to obtaining information from Railtrack has a number of drawbacks both for ORR and for Railtrack:
- (a) it has resulted in some overlapping between reporting requirements, and some inconsistency in approaches, which militates against transparency both for the Regulator and other interested parties; and
  - (b) it imposes an extra and unnecessary administrative burden on Railtrack.
- 2.5 He considers that there would be advantages for both ORR and for Railtrack in providing for an annual return which would:
- (a) report on the extent to which Railtrack has delivered the outputs assumed in the periodic review and in Railtrack's own Network Management Statement in respect of the year ended 31 March immediately preceding provision of the annual return;
  - (b) in respect of the first annual return, establish the reference position against which subsequent changes in performance measures referred to in paragraph 2.2 above would be assessed;
  - (c) extend the range of indicators of Railtrack's performance from those currently published in its Network Management Statements;
  - (d) make it easier for the Regulator to assess whether Railtrack is delivering against its obligations to maintain, renew and develop the rail network on an ongoing basis, rather than waiting until subsequent reviews of access charges. This would reduce the burden on the industry and the Regulator at the next review;
  - (e) enable any reporter appointed by Railtrack (consequential to the proposed licence modification described in Chapter 3) to obtain more easily the information needed to take an holistic view of Railtrack's compliance with its stewardship obligations; and
  - (f) provide Railtrack with greater clarity about what information is required, by defining in advance what information is to be provided on an annual basis.

### **Effect of the proposed modification**

2.6 The proposed modification to Condition 15 of Railtrack's network licence is set out at Annex A. This provides that:

- (a) Railtrack is to prepare and submit an annual return to the Regulator, in a form which he has previously approved, not later than 1 July each year (or such later date as the Regulator may approve) following the end of the year to which it relates;
- (b) the annual return is to include, but not be limited to:
  - (i) the regulatory financial statements prepared pursuant to the proposed Condition 22 (see below);
  - (ii) the Network Management Statement reconciliation prepared pursuant to paragraph 8 of Condition 7;
  - (iii) information in relation to enhancements and their logging up which may from time to time be required to be prepared and published pursuant to paragraph 4 of the proposed Condition 22;
  - (iv) statistical and other data for the purpose of monitoring outcomes against the assumptions underlying the charges set by the Regulator, or as specified by the Regulator; and
- (c) information in the annual return, subject to any modification that the Regulator may approve, is to be made available to any member of the public on request within one month of its delivery to the Regulator.

### **Relation with proposed new Condition 22**

2.7 The proposed modifications to Condition 15 refer to information that would be required to be produced by Railtrack if the new proposed Condition 22 is incorporated into the network licence (see Chapter 3).



### *3. Proposed modification: Condition 22 (Regulatory Accounts)*

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#### **Background**

- 3.1 At present Railtrack publishes standard accounts for both Railtrack PLC and Railtrack Group, as required by the Companies Act 1985. Supplementary regulatory information is also produced in accordance with Condition 12 of Railtrack's network licence and notices issued by the Regulator pursuant to that condition. These supplementary regulatory accounts include a current cost profit and loss statement and balance sheet (with reconciliation back to historical cost).
- 3.2 The Regulator considers that these arrangements do not provide the information that he requires. As part of his consultation in April 2000 on proposed changes to Railtrack's reporting requirements, he set out his views on how Railtrack's regulatory reporting requirements should be developed<sup>4</sup>. In July 2000, the Regulator proposed minor modifications to the proposed licence condition in response to representations from Railtrack and its auditors<sup>5</sup>.
- 3.3 In October 2000, the Regulator summarised further representations from Railtrack, and said that the proposed licence modification was important to ensuring that accurate and reliable information on both Railtrack's financial and operating performance was available on an ongoing basis<sup>6</sup>. He indicated his intention to discuss with Railtrack the detailed drafting of this licence modification and the process for finalising both the condition and associated guidelines with a view to finalising the proposals.

#### **Reasons for the proposed modification**

- 3.4 The Regulator considers that the financial statements that Railtrack produces at present are not consistent with the approach to setting the price controls described in his final conclusions and are therefore of limited relevance to either the Regulator or other users of the regulatory accounts (e.g. investors). The Regulator is concerned that this does not

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<sup>4</sup> See footnote 1.

<sup>5</sup> See footnote 2.

<sup>6</sup> See footnote 3.

facilitate the transparency and effectiveness of regulation, nor the efficient financing of investment.

3.5 The licence modification he has proposed requires the preparation of regulatory accounts that would provide greater transparency about:

- (a) the value of the Regulatory Asset Base, thereby providing greater predictability for investors and facilitating the efficient financing of investment; and
- (b) Railtrack's performance against the assumptions made at the periodic review of Railtrack's access charges and (if relevant) subsequent interim reviews of access charges, thereby providing a more robust basis for establishing the appropriate level of access charges at subsequent reviews and, if necessary, enforcing compliance with existing obligations.

3.6 The collection and analysis of this information on an ongoing basis should ensure that the information is accurate and properly understood. It should also reduce the burden on the industry and the Regulator at any subsequent review of access charges.

#### **Effect of the proposed modification**

3.7 The proposed modification to Railtrack's network licence is set out in a new licence condition reproduced at Annex B. This provides that:

- (a) the purpose is to procure information from the licence holder which is relevant to the assessment and determination of access charges, and which allows the licence holder's financial performance and position to be monitored against assumptions in the Regulator's periodic review of access charges;
- (b) the licence holder is to prepare and submit regulatory financial statements to the Regulator, in a form which he has previously approved, not later than 1 July each year (or such later date as the Regulator may approve) following the end of the financial year to which it relates;
- (c) the statements are to be prepared on a basis which is consistent with the assumptions made by the Regulator in his periodic review of Railtrack's access charges;
- (d) the Regulator may issue Regulatory Accounting Guidelines to provide further specification of the accounting policies, format and content of statements, to require segmental analyses or breakdowns of items in the statements, to require

information in relation to transactions between the licence holder and any affiliate, and to require information on enhancements to the rail network proposed and carried out by the licence holder; and

- (e) the licence holder is to procure a report from its auditors stating whether the statements comply with the condition and the Regulatory Accounting Guidelines, and whether they present fairly the financial performance and financial position of the licence holder.



## *4. Proposed modification: Condition 23 (Appointment and Role of Reporter)*

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### **Background**

- 4.1 The Regulator's proposals for the appointment of a reporter<sup>7</sup> were set out in April 2000<sup>8</sup>. He noted that OFWAT had developed a system of reporters to provide an independent assessment of the robustness of company information submissions and the assumptions underlying them. He also noted that the reporter model had generally been seen as successful in the water industry in improving the accuracy and consistency of data received by OFWAT, and could improve information flows within the companies themselves.
- 4.2 In July 2000 the Regulator summarised the representations he had received and his response to them in a further consultation document<sup>9</sup>, which also explained in more detail the role that the reporter would play in reviewing the proposed annual return. In particular, he said that he would require the reporter to review the annual return and provide a report to him. He would consider both the annual return and the reporter's analysis, and would expect to publish a commentary on the level of performance in the year in question, and set out any action he proposed to take to remedy any identified shortcomings. Copies of those representations that are not confidential have been placed in ORR's library and on the website.
- 4.3 In October 2000 he responded to further representations from Railtrack and indicated that he intended to discuss the detailed drafting of the licence condition with Railtrack<sup>10</sup>.

### **Reasons for the proposed modification**

- 4.4 The Regulator considers that it is important that he can rely upon the information supplied by Railtrack in exercising his functions under the Railways Act 1993, including assessing the extent to which Railtrack is fulfilling its stewardship obligations under its network licence.

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<sup>7</sup> "Reporter" in the proposed condition is defined to mean one or more persons

<sup>8</sup> See footnote 1.

<sup>9</sup> See footnote 2.

<sup>10</sup> See footnote 3.

- 4.5 He considers that this will be facilitated by the provision made in the proposed modification to Condition 15 (see Chapter 2) for an annual return in a consistent format. However, he also considers that he needs independent verification of the processes by which this information is provided, and for the results to be audited. He considers that the appointment of an independent reporter to carry out this task would:
- (a) provide the Regulator with an independent assessment of the robustness of the assessed starting position at the beginning of the next control period, and where necessary, advice on what adjustments to this position might be required;
  - (b) enable the Regulator to have greater confidence in the information produced by Railtrack, and focus on the lessons to be drawn from that information, without first having to devote time and effort to establish whether it is accurate;
  - (c) facilitate early identification by both Railtrack and the Regulator of problem areas, so that prompt remedial action can be taken;
  - (d) provide for more detailed analyses of specific issues where particular problems have been identified (e.g. in reviewing Railtrack's recovery plans); and
  - (e) reduce the requirement for potentially expensive and disruptive one-off inquiries into the integrity of information supplied to the Regulator by Railtrack.
- 4.6 The Regulator notes that, notwithstanding the provision of an annual return, there will be occasions on which he will be required to undertake further inquiries into particular aspects of Railtrack's activities relating to the provision of railway services. Hitherto, he has relied upon analysis by his staff and by consultants on an *ad hoc* basis. The Regulator considers that the reporter would be better placed to carry out some of these inquiries, by reason of the detailed knowledge of Railtrack that it will build up over time.

#### **Effect of the proposed modification**

- 4.7 The proposed modification to Railtrack's network licence is set out in a new licence condition reproduced at Annex C. This provides that:
- (a) the purpose of the reporter is to provide the Regulator with independent, professional advice on information relating to the provision or contemplated provision of railway services by Railtrack, so that the Regulator can rely upon that advice in discharging his statutory functions;

- (b) the Regulator may draw up guidelines providing for the selection and appointment of a reporter, and criteria regarding grounds for removal of the reporter. The guidelines will also set out terms and conditions to be included in the reporter's contract;
- (c) the contract is to make provision for Railtrack to pay for any inquiry conducted in accordance with the condition, and for the reporter to owe a duty of care to the Regulator. The Regulator may require the reporter to carry out inquiries into any matter that the Regulator considers is germane to the setting of access charges, or relevant to an annual return provided under Condition 15 (see Chapter 2) or to the provision of railway services. Any proposed inquiry is to be discussed with Railtrack beforehand, and costed by the reporter, and is to be approved by the Regulator, having first taken account of any representations made by Railtrack; and
- (d) Railtrack is to co-operate fully with the reporter, and is to provide reasonable access to its staff, contractors and agents, as well as to premises occupied by Railtrack in relation to the provision of railway services.



## *Annex A: Text of proposed modification to Condition 15 of Railtrack's network licence: (Provision of Information to the Regulator and the Authority)*

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The following shall be inserted after paragraph 5 of Condition 15: Provision of Information to the Regulator and the Authority.

- " 6. Without prejudice to the generality of the preceding paragraphs of this Condition, the licence holder shall prepare on an annual basis and provide to the Regulator an annual return in a form previously approved by the Regulator which shall (without limitation) include:
- (a) the regulatory financial statements prepared pursuant to Condition 22;
  - (b) the Network Management Statement reconciliation prepared pursuant to paragraph 8 of Condition 7;
  - (c) information in relation to enhancements and their logging up which may from time to time be required to be prepared and published pursuant to paragraph 4 of Condition 22;
  - (d) any statistical and other data specified by the Regulator for the purpose of monitoring outcomes against the assumptions underlying the charges set by the Regulator; and
  - (e) any statistical and other data specified by the Regulator.
7. The annual return referred to in paragraph 6 shall be provided to the Regulator as soon as reasonably practicable and in any event not later than 1 July following the end of the financial year to which it relates (or a later date approved by the Regulator). Within one calendar month of delivery to the Regulator, subject to any modification approved by the Regulator, it shall be made available to any member of the public on request.

8. Without prejudice to the generality of the preceding paragraphs of this Condition, the licence holder shall prepare monthly returns in a form approved by the Regulator to be provided to the Regulator as soon as reasonably practicable and in any event not later than 14 days after the end of the month to which the information relates (or a later date approved by the Regulator)."

## *Annex B: Text of proposed modification to Railtrack's network licence: Condition 22 (Regulatory Accounts)*

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### **Condition 22: Regulatory Accounts**

1. The purpose of this Condition is to procure the provision of annual information on the financial performance and financial position of the licence holder which is relevant to the Regulator and other persons:
  - (a) for the assessment and determination of the licence holder's access charges; and
  - (b) which allows the financial performance and financial position of the licence holder to be monitored against the Determination Assumptions.
2. In order to achieve the purpose referred to in paragraph 1, the licence holder shall prepare regulatory financial statements (and shall for such purpose maintain accounting records) in accordance with the following paragraphs of this Condition and any Regulatory Accounting Guidelines from time to time issued by the Regulator.
3. The financial statements referred to in paragraph 2:
  - (a) shall be prepared in respect of the financial year ended 31 March 2002 and (save as otherwise provided in this Condition or the Regulatory Accounting Guidelines) thereafter on a consistent basis in respect of each succeeding financial year;
  - (b) shall be prepared such that, insofar as reasonably practicable, the definition of items in primary statements; the valuation of assets and liabilities; the treatment of income and expenditure as capital or revenue; adjustments in respect of the provision, utilisation, depreciation and amortisation of assets and liabilities; and any other relevant accounting policies shall be consistent with:
    - (i) the Regulator's valuation of the Regulatory Asset Base for the purpose of determining access charges; and

(ii) the Determination Assumptions for the corresponding period;

(and so that where the presentation of an item in the primary statements departs from the basis for the Regulatory Asset Base or the Determination Assumptions, a reconciliation shall be included by way of a note);

- (c) shall include, as a primary statement, a statement of regulatory financial performance comparing income, expenditure, profits and losses for the period with the Determination Assumptions;
- (d) shall include all details reasonably necessary to reconcile items included in the primary statements with any corresponding items in annual statutory accounts for the same period; and
- (e) shall include narrative explaining the material variances from the previous year and from the Determination Assumptions.

4. The Regulator may from time to time issue Regulatory Accounting Guidelines which may:

- (a) further specify the accounting policies, format and content of the financial statements and the matters to be shown or reported therein;
- (b) provide for appropriate segmental analysis and/or further breakdown of any items contained in the primary statements;
- (c) provide for specification or description of any transactions or arrangements between the licence holder and any affiliate or related undertaking (including, without limitation, so as to enable the Regulator to monitor compliance with the conditions of this licence); and
- (d) further include provision requiring the licence holder to prepare and publish information in respect of proposed enhancements which the licence holder shall log up as enhancement expenditure, and annually, information on those enhancements actually made.

5. The licence holder shall procure a report by the Auditors addressed to the Regulator:

- (a) stating whether, in their opinion, the regulatory financial statements (other than those referred to in sub-paragraph (c) of this paragraph 5) and information on proposed enhancements have been prepared in accordance with this Condition, including Regulatory Accounting Guidelines;
  - (b) stating whether, in their opinion, the regulatory financial statements present fairly the financial performance and financial position of the licence holder in accordance with this Condition and any Regulatory Accounting Guidelines; and
  - (c) stating whether the information on enhancement expenditure produced in accordance with paragraph 4(d) of this Condition has been prepared in accordance with the Regulatory Accounting Guidelines and is consistent with such expenditure presented in the primary financial statements.
6. The licence holder shall enter into a contract of appointment with the Auditors which shall include a term that the Auditors will provide such further explanation or clarification of their reports and such further financial information in respect of the matters which are the subject of their reports as the Regulator may reasonably require for the exercise of his functions, including, in relation to monitoring, compliance by the licence holder with the Conditions of this licence.
7. The licence holder shall deliver to the Regulator a copy of the financial statements together with any information provided for in the Regulatory Accounting Guidelines and the Auditors' report as soon as reasonably practicable and in any event not later than 1 July following the end of the financial year to which they relate (or a later date approved by the Regulator). The financial statements, information and Auditors' report, subject to any modifications approved by the Regulator, shall be published within one calendar month of delivery to the Regulator and thereafter made available to any member of the public on request.
8. In this Condition:  
  
"Auditors" means the person appointed by the licence holder for the purpose of reporting on the regulatory financial statements referred to in this Condition;

“Determination Assumptions”	means any assumptions (including their definitions and bases of measurement) from time to time notified to the licence holder by the Regulator as assumptions that have been used for determining access charges;
“Regulatory Accounting Guidelines ”	means any guidelines issued by the Regulator from time to time in accordance with paragraph 4 of this Condition; and
“Regulatory Asset Base”	means the asset values as from time to time notified to the licence holder by the Regulator as being asset values that have been or are to be used for determining access charges.

## *Annex C: Text of proposed modification to Railtrack's network licence: Condition 23 (Appointment and Role of Reporter)*

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### **Condition 23: Appointment and Role of Reporter**

1. The function and purpose of the Reporter is to provide the Regulator with independent, professional opinions and advice on data relating to the licence holder's provision or contemplated provision of railway services, with a view to the Regulator relying upon those opinions or advice (after, where appropriate, affording the licence holder an opportunity to make representations thereon, and having taken account of those representations) in the discharge by the Regulator of his functions under, or in consequence of, the Railways Act 1993.
2. Subject to paragraph 3, the Regulator may require the Reporter at any time and from time to time to inquire and report:
  - (a) into any matter considered by the Regulator as material to the setting by the Regulator of access charges;
  - (b) into any matter in respect of which the licence holder shall be required to make an annual return pursuant to Condition 15; and
  - (c) into any matter relating to the condition, capacity or capability of any premises or assets used or intended to be used for the provision of railway services by the licence holder.
3. The scope and content of any inquiry proposed to be undertaken by the Reporter in accordance with paragraph 2 shall be:
  - (a) discussed with the licence holder;
  - (b) defined and costed in a written proposal made by the Reporter; and

- (c) approved by the Regulator, subject to such modifications (if any) as he may reasonably require, having first taken account of any representations made by the licence holder and not withdrawn.
4. The contract between the licence holder and the Reporter shall make provision for payment by the licence holder to the Reporter in respect of any inquiry conducted and report produced pursuant to this Condition.
5. The Regulator may from time to time draw up and notify to the licence holder Reporter Guidelines which may (without limitation) contain provisions:
- (a) establishing criteria regarding:
    - (i) the suitability (in terms of expertise, experience or otherwise) of persons for appointment or re-appointment as Reporter; and
    - (ii) grounds for the removal of the Reporter;
  - (b) establishing procedures for the licence holder to appoint the Reporter including procedures for:
    - (i) the licence holder to put forward a shortlist of persons which it considers to be suitable for the purpose;
    - (ii) the Regulator to require the licence holder to include alternative persons in the shortlist; and
    - (iii) the Regulator to require the licence holder to appoint a particular Reporter from the shortlist;
  - (c) specifying any particular terms to be contained in the contract of appointment of the Reporter by the licence holder (including, without prejudice to the generality of the foregoing, terms setting out necessary qualifications of the Reporter, limitations or exclusions of liability of the Reporter, duration of appointment, addressing possible conflicts of interest, and obligations regarding confidentiality of data provided to the Reporter by the licence holder); and

- (d) establishing procedures for specification and approval of the scope and content of any inquiry to be undertaken by the Reporter pursuant to paragraph 2 of this Condition.
6. The licence holder shall comply with any Reporter Guidelines from time to time notified to it by the Regulator pursuant to paragraph 5 above insofar as they concern:
- (a) co-operation in the process leading to appointment by the licence holder of one or more persons to act as Reporter;
  - (b) establishing the terms of the contract of appointment (including without limitation terms under which the contract may be terminated). The terms of the contract of appointment between the licence holder and the Reporter shall be subject to approval by the Regulator;
  - (c) co-operating with the Reporter in the undertaking by it of any inquiry it is required by the Regulator to undertake pursuant to paragraph 2 above; and
  - (d) insofar as it is able to do so, procuring the co-operation of any affiliate of the licence holder or of the Auditors from time to time of the licence holder in the undertaking by the Reporter of any inquiry it is required by the Regulator to undertake pursuant to paragraph 2 above.
7. It shall be a term of any contract entered into by the Reporter with the licence holder that in the carrying out of any inquiry that the Regulator may require the Reporter to undertake, the Reporter shall owe a duty of care to the Regulator.
8. The licence holder shall (and shall procure insofar as it is able to do so that any affiliate of the licence holder and its Auditors shall) co-operate fully with the Reporter so as to enable it to carry out, complete and report on any inquiry it is called upon to undertake. The duty of co-operation shall include without limitation, and insofar as necessary or expedient for such purpose, subject to reasonable prior notice to the licence holder and at reasonable hours, allowing the Reporter:
- (a) reasonable access to directors, employees, agents or independent contractors (including sub-contractors) of the licence holder to make such inquiries and to discuss any matters reasonably considered by the Reporter as relevant to the

carrying out by it of any inquiry or the drawing up of any report which the Regulator may have required the Reporter to undertake;

- (b) reasonable access to any premises occupied by the licence holder in relation to the provision of railway services by the licence holder and allowing the Reporter:
  - (i) to carry out inspections, measurements and tests on or in relation to any such premises; and
  - (ii) to take onto such premises such other persons and such equipment as may be necessary or expedient for the purposes of carrying out its inquiry and preparing and completing its report; and
- (c) to inspect and make copies of, and take extracts from, any data comprising documents or other records in the possession, custody or control of the licence holder maintained in relation to its railway services other than data which the licence holder could not be compelled to disclose in any judicial proceedings before the High Court.

9. In this Condition:

Unless the context otherwise requires, words and phrases shall bear the same meaning as those ascribed to them in the Railways Act 1993.

“data” includes information recorded or transmitted in any form (whether oral or otherwise) and the ability to inspect and make copies shall, in relation to information recorded electronically or otherwise than in legible form, include the ability to require production of a copy of such information in the manner in which it is recorded or in a legible form, or both;

“Reporter”	means one or more persons appointed from time to time in accordance with the procedures referred to in paragraph 5(b); and
“Reporter Guidelines”	means any guidelines notified by the Regulator in accordance with paragraph 5.