



OFFICE *of the*
RAIL REGULATOR

ACHIEVING “T-12”:

**A CONSULTATION DOCUMENT ABOUT
DELIVERING TIMETABLE INFORMATION
TO PASSENGERS**

Contents

Regulator’s foreword	1
1. Introduction and Summary	3
The T-12 objective	4
Enforcement of T-12	4
Obligations under the proposed licence modifications	5
Railtrack Track Access Conditions	5
2. Background	7
3. Responses to Regulator's 12 November letters	9
4. The T-12 Objective	11
5. Enforcement of T-12	13
6. Obligations under the proposed licence modifications	17
7. Track Access Conditions	19
8. Next steps	23
Annex A: Key obligations which the Regulator is proposing to incorporate into draft licence modifications	25
Key Railtrack responsibilities:	25
Key train operator responsibility:	25
Key responsibilities for both Railtrack and train operators:	25
Annex B: Text of letters sent to Railtrack and all Managing Directors of passenger train operators	27
Text of letter to Gerald Corbett, Chief Executive of Railtrack:	27
Text of letter to Managing Directors of Passenger Train Operators:	30
Annex C: Summary of key T-12 deadlines and terms	33
Key deadlines	33
Other terms	33

Regulator's foreword

Many rail journeys involve planning ahead. Easy access to information on train times, and the accuracy of that information, is therefore essential for rail passengers. This is all the more important at times of the year such as Christmas and Easter when passengers may be particularly concerned about making firm arrangements in advance of travelling, and train times are often changed to accommodate engineering work. That is why the Regulator welcomed the industry commitment to ensure by May 1998 that timetable information for a particular day was available at least twelve weeks in advance of that day: the 'T-12' commitment.

By the target date of May 1998, the rail industry had come close to achieving full compliance with T-12 despite an increasing amount of maintenance and renewal work on the network. But this position was not maintained: while T-12 has been achieved for many services, timings for some Christmas services were not confirmed until early December.

Passengers rightly expect Railtrack and the train operators to work together to deliver improved performance and levels of service. Timely, accurate timetable information must be part of this. Some operators have argued that T-12 is not a key requirement of their own business. That misses the point. If passengers are to rely on the railway to operate as a seamless national network, all operators need to achieve T-12, and to achieve it at all times. Only in that way will customer confidence be achieved, and rail better deliver its potential.

Following the failure of the industry to deliver T-12 for all Christmas services, my predecessor wrote to the Chief Executive of Railtrack and the managing directors of each of the train operating companies on 12 November last year to obtain detailed information on the delivery of T-12 and to seek views on the mechanisms needed to achieve it consistently in future. I have now received and studied these reports, and have considered what action is needed.

I am not satisfied that passenger expectations in respect of T-12 will be delivered reliably without further regulatory action. The timetable for the forthcoming Easter Bank Holiday is finalised and was largely in place for the 12-week deadline. However, this was achieved at the expense of finalising the timetable on time for some of the preceding weeks on certain routes. In addition, a small number of train operators continue to submit late timetable bids, or none at all. This continued failure leads me to conclude that the industry's public commitment to T-12 needs to be expressed in a more tangible form, and made enforceable. I

have provisionally concluded that the best way of achieving this is to modify the licences of Railtrack and train operators to make the T-12 commitment explicit and facilitate early action – including the possibility of levying fines – if problems such as those surrounding Christmas and Easter persist.

I welcome comments on this provisional conclusion and the other issues raised in this consultation document.

Chris Bolt
January 1999

1. *Introduction and Summary*

- 1.1 At the time of privatisation, the rail industry committed itself to ensuring that a robust and stable timetable is available to train operators for the provision of timetable information to passengers at least twelve weeks in advance of each day of railway operation (the commitment known as T-12, originally part of the Informed Traveller initiative). Despite significant efforts by the industry to achieve this commitment, delivery has been inconsistent with major difficulties arising in certain areas in respect of planning for the last Christmas and New Year Bank Holidays. As a result, the Regulator wrote to the Chief Executive of Railtrack and to all Managing Directors of train operating companies seeking an explanation for the failure to deliver.
- 1.2 Having considered the responses he received, the Regulator concluded that he should consult passengers and the industry on specific options to address the concerns raised by industry parties. This document is that consultation, and sets out the Regulator's preferred approach for strengthening the delivery and enforcement of the T-12 objective.
- 1.3 The Regulator would welcome views and comments on the issues and options raised in this document. These should be sent to by **Friday 12 February** to:
- David Chapman Esq
Manager, Railtrack Regulation
Office of the Rail Regulator
1 Waterhouse Square
138-142 Holborn
London EC1N 2TQ
- Tel. number: 0171-282 2090
Fax number: 0171-282 2042
- 1.4 It is our intention to place copies of all comments received in the ORR Library. Submissions made in confidence will be accepted, but should be clearly marked as such. However, in addition, where a submission is made in confidence, it should be accompanied by a statement to be placed in the ORR Library that a confidential submission has been made, giving the reasons why the submission was made in confidence, and summarising that submission excluding the confidential information.

- 1.5 Last November the Regulator wrote to industry parties to ask them why the industry had failed to deliver fully its commitment to make available train timetable information twelve weeks in advance of each day of operation (T-12), especially in relation to the 1998 Christmas and New Year Bank Holidays. Responses have indicated that there are a range of problems which need to be addressed. These include ensuring that engineering and possession planning is done consistently in accordance with T-12 timescales, and that those train operators who are not consistently submitting timetable bids as required under the T-12 planning process are obliged to do so.
- 1.6 It also appears to the Regulator, as stated by many respondents to the November letters, that Part D of the Railtrack Track Access Condition, where the contractual process for delivering T-12 is set out, does not provide an effective enforcement mechanism for ensuring delivery of the objective. Railtrack does not have sufficient knowledge of train operators' businesses to write the passenger timetable without their cooperation, and train operators cannot readily influence the efficiency with which Railtrack conducts its engineering planning.
- 1.7 The Regulator has provisionally concluded that an alternative approach to ensuring the delivery of the T-12 commitment is needed. He is proposing licence modifications for Railtrack and passenger train operators introducing high level obligations to ensure the delivery of the public commitment which the industry has made and to enable him to take action in the event of non-delivery.
- 1.8 The Regulator is now seeking views on this provisional conclusion, and in particular on the following questions.

The T-12 objective

Q1 The Regulator would like to hear the views of consultees on whether or not they agree that the T-12 objective remains the most appropriate target for the foreseeable future, given the need to balance the requirements of different businesses and passengers.

Enforcement of T-12

Q2 The Regulator would like to hear the views of consultees on whether they agree with him that (a) the high level commitment to T-12 should be made an enforceable obligation, and (b) in order to provide for effective enforcement by the Regulator this obligation should take the form of a licence commitment.

Q3 Freight operators are not directly involved in providing timetable information to passengers, and are contractually bound to provide a certain level of service to their customers. The Regulator has therefore provisionally concluded that the existing contractual obligations under Part D of the Track Access Conditions, combined with Condition 6 of Railtrack's Network Licence which prohibits Railtrack from engaging in undue discrimination, are sufficient to ensure that freight operators do not disrupt the T-12 process, and that their customers' interests are adequately protected. However, he would be pleased to hear the views of consultees on this point.

Obligations under the proposed licence modifications

Q4 The Regulator is seeking views from passenger train operators, from Railtrack and from other interested parties on the form and scope of the proposed licence obligations described in Chapter 6 and summarised in Annex A, which the Regulator is considering incorporating into draft licence modifications, having regard to the commitment of the industry to T-12 and the need to restore the confidence of passengers in the industry's capability to provide accurate and timely timetable information.

Railtrack Track Access Conditions

Q5 Subject to confirmation from consultees that earlier planning for key Bank Holidays is desirable, the Regulator proposes to invite Railtrack to develop and table a suitable draft amendment for consideration under the procedures for changing the Track Access Conditions. He would therefore welcome views on this proposal.

Q6 The Regulator invites views on whether differentiating between material and non-material possessions would help to streamline the short-term planning process.

Q7 The Regulator would be interested to hear consultees' views on whether there is scope for a fast-track dispute resolution mechanism in Part D3.8 of the Track Access Conditions, or whether there are alternative options for providing an effective dispute procedure in relation to the short term planning process.

Q8 The Regulator would also like to hear the views of consultees on whether there are any other changes that should be made to Part D3.8 to underpin more consistent delivery of T-12.

2. *Background*

- 2.1 The T-12 commitment made at the time of privatisation would, if fully implemented, provide a significant enhancement to the information services provided by the industry to current and potential passengers, with the early provision of timetable information and the ability to book journeys well in advance of travel. It is therefore an important commitment, and one to which the Regulator attaches great importance.
- 2.2 However, delivery of the commitment has required major changes to be made to industry engineering and timetable planning processes. It has also had significant implications for industry train planning resources.
- 2.3 Despite these challenges, the industry put in place the necessary contractual procedures to ensure national delivery of T-12 from the Summer 1998 Passenger Timetable. During the Summer period, it appeared that the industry was reasonably close to achieving full compliance with T-12. However, with the introduction of more engineering work within the Winter 1998 Timetable, processes and resources became stretched. In particular, there were significant problems in relation to the amount of additional engineering planning for the Christmas and New Year Bank Holidays which resulted in the material failure of T-12 for this period. In certain cases, timetables were not finalised until as little as two to three weeks in advance.
- 2.4 The Regulator was extremely disappointed at this failure by the industry to meet its public commitment to passengers. When it became apparent that the failure of T-12 on some routes over the Christmas period was having a significant impact on the ability of passengers to book trains and finalise their travel arrangements, the Regulator wrote to all passenger train operators and to Railtrack (on 12 November 1998) seeking information about compliance with T-12, the reasons for the failure, and views as to how procedures and enforcement processes might be tightened up. The text of these letters is reproduced in Annex B.
- 2.5 This document represents the next steps in the process initiated by the Regulator in November. It sets out the proposals which the Regulator is currently considering in order to provide a better mechanism to ensure the delivery of T-12, and on which he is seeking views. The key element of these proposals is the modification by agreement of Railtrack's and passenger.

3. Responses to Regulator's 12 November letters

- 3.1 The responses to the Regulator's letters revealed that, overall, the rail industry remains committed to the delivery of T-12, but that certain underlying problems continue to make full national delivery difficult. This situation was heightened for the Christmas and New Year Bank Holidays by the additional weight of engineering planning required. Some train operators and Railtrack Zones were – and remain – fully compliant with T-12. However, the disruption to the planning process caused by other operators not meeting T-12 planning timescales, together with inconsistent delivery by some Railtrack Zones, resulted in long delays in finalising the timetable for significant areas of the rail network¹.
- 3.2 The key issues raised by respondents were:
- (a) the assertion that Railtrack has not consistently planned its possession requirements in line with T-12 timescales and requirements;
 - (b) the absence or lateness of bids from a number of train operators;
 - (c) concerns that certain Railtrack zones were not adequately resourced;
 - (d) concerns about the adequacy of resourcing in certain train operators;
 - (e) the inadequacy of the current computer systems to support the T-12 process;
 - (f) a widespread view that the short-term planning process in the Track Access Conditions did not contain or support an effective contractual dispute resolution procedure for resolving problems within the necessary timescales.
- 3.3 Copies of all the responses received from train operators and from Railtrack which were not received in confidence have been placed in the Library of the Office of the Rail Regulator².

¹ A short glossary of T-12 timetable planning terms is included in this document at Annex C.

² The library is open to the public from 10.00 to 16.00, Monday to Friday. It would be helpful if enquirers telephone the Librarian, Sue MacSwan, on 0171-282 2001 in advance of a visit.

4. *The T-12 Objective*

- 4.1 T-12 was accepted by the rail industry at the time of privatisation as the most appropriate target timescale for establishing an accurate timetable for each day of operation (with subsequent downloads to retail and reservation systems usually 1 to 2 weeks later). Twelve weeks represented a compromise between those companies with well established timetables who wanted a longer period, and those businesses which do not have reservation systems and where early establishment of the timetable is less critical. The 12 week target was endorsed by the then Secretary of State, the Chairman of Railtrack, and the Chairman of the British Railways Board. The 12 week target continues to be strongly supported by much of the industry, including Railtrack and the Association of Train Operating Companies. It is also strongly supported by the Office of Passenger Rail Franchising, which has welcomed the Regulator's consultation, and by the Rail Users Consultative Committees representing passengers.
- 4.2 The Regulator is not aware of any changed circumstances or new information which would warrant a reconsideration of the 12 week principle. In his view, this remains a reasonable compromise.
- Q1 The Regulator would like to hear the views of consultees on whether or not they agree that the Informed Traveller objective of T-12 remains the most appropriate target for the foreseeable future, given the need to balance the requirements of different businesses and passengers.

5. *Enforcement of T-12*

- 5.1 Given the problems identified by respondents to the Regulator's November letters with the delivery of T-12 and the Regulator's provisional view that it remains the most appropriate industry target, the Regulator is of the view that enforceable obligations are needed to ensure consistent, national delivery.
- 5.2 In reaching this conclusion, the Regulator is of course aware of the significant efforts made by many people in the rail industry to meet T-12, and the commitment made by most rail companies to achieve the target. Nevertheless, the target has not been consistently met, and a number of rail companies continue to fail to plan their requirements in a manner and timescale consistent with the delivery of T-12.
- 5.3 Obligations can be enforced as a matter of contract between commercial parties. In particular, multilateral contractual obligations can be introduced into the Track Access Conditions either through the democratic industry change procedure, or under the Regulator's unilateral change power. Alternatively, obligations can be placed in operating licences, creating powers of investigation and enforcement for the Regulator.
- 5.4 The Regulator's assessment of the current position in respect of T-12 is that whilst the Track Access Conditions provide an appropriate mechanism for setting out the detailed processes and obligations underpinning T-12 (currently set out in Condition D3.8), they do not provide an adequate mechanism for enforcement of the high level objective.
- 5.5 Part D of the Track Access Conditions gives Railtrack the power to make timetabling decisions in the short-term planning process without any input from train operators. However, in reality it would be difficult for Railtrack to complete the timetable without proper bids by train operators because it is unlikely to have sufficient knowledge of train operator's resource diagrams or of their passengers' requirements. Nor can Railtrack enforce "commitment" to the objective by train operators.
- 5.6 Equally, the whole short term timetable planning process is dependent on the quality and timeliness of engineering planning conducted by Railtrack and its maintenance contractors. Late amendments to possessions, late notifications and cancelled possessions have all been raised by train operators as matters of concern. But this is not something that can readily be influenced by train operators.

5.7 The Regulator has therefore reached the provisional conclusion that enforcement of the high level T-12 objective should be through rail companies' licences and that it would be appropriate to seek to agree, with each company, appropriate standard modifications to achieve this. He believes that the introduction of licence modifications to ensure the delivery of T-12 would have a number of significant benefits to the industry and to the wider public:

- (a) making clear to all industry parties the importance which the Regulator places on delivery of the T-12 commitment;
- (b) demonstrating to the public that the industry is serious about this commitment and is prepared to take the necessary action to ensure full national delivery;
- (c) providing greater confidence within the industry that if the delivery of T-12 is compromised by any one train operator, or by Railtrack, then the Regulator has the necessary investigatory and enforcement powers to take action; and
- (d) placing specific obligations on all the parties involved to have the necessary logistics in place to meet their obligations.

Q2 The Regulator would like to hear the views of consultees on whether they agree with him that (a) the high level commitment to T-12 should be made an enforceable obligation, and (b) in order to provide for effective enforcement by the Regulator this obligation should take the form of a licence commitment.

5.8 A modification to Railtrack's Network Licence would be a key element of this approach. Railtrack carries a central responsibility to plan its engineering works in an effective and efficient manner and to manage the delivery of T-12. It appears to the Regulator that it would be appropriate to reflect these responsibilities in any licence modification.

5.9 However, it would be inappropriate, given the collaborative nature of T-12, to expect Railtrack to accept new licence obligations without counter-balancing obligations in train operators' licences. Such obligations would be designed to ensure that train operators provide the necessary support to Railtrack to enable it to comply with its obligations (in view of the failure by some train operators to participate fully in the contractual procedures) and that, having received revised timetable information from Railtrack, they supply this information promptly to timetable information providers (such as telephone enquiry bureaux).

- 5.10 Therefore, in order to deliver the benefits mentioned above, it appears to the Regulator that it would be appropriate – in addition to inviting Railtrack to consent to a modification of its Network Licence – to seek the agreement of all passenger train operators to a modification of each of the relevant train operating licences in support of the delivery of T-12.
- 5.11 Whilst there may be an option to seek to agree modifications only in respect of those licences held by train operators which are not consistently meeting T-12, this appears to the Regulator not to be appropriate because:
- (a) T-12 is an industry commitment, and any tightening of the delivery requirements needs to be accepted by the industry as a whole;
 - (b) different operators achieve different levels of compliance at different times, making enforcement without full coverage difficult;
 - (c) it would not be in the interests of compliant train operators if the process could be disrupted by a train operator which is currently compliant slipping into non-compliance with no scope for the Regulator to take quick action; and
 - (d) it would not be an acceptable use of regulatory or industry resources to have to address licence modifications on a company by company basis, particularly if this meant making references to the Monopolies and Mergers Commission in the absence of agreement at different times.
- 5.12 The Regulator would also hope that compliant operators would recognise:
- (a) the importance of demonstrating industry commitment and showing a lead to train operators who are not yet compliant; and
 - (b) that accepting an obligation in respect of something they are already successfully achieving will not be burdensome.
- 5.13 The Regulator considers that the same principles should apply to all operators running scheduled passenger services and should therefore be included in all licences issued to operators of such services in the future.
- 5.14 There is a separate question about whether it would be appropriate to seek the agreement of freight operators to the inclusion in their operating licences of obligations in respect of cooperation with Railtrack in the T-12 process. Whilst freight operators have no direct responsibility for the delivery of T-12, they are, of course,

subject to the contractual procedures set out in Part D of the Track Access Conditions. If freight operators do not participate actively in the T-12 planning process, they may find that Railtrack makes timetabling decisions which do not suit the needs of their customers. However, unlike passengers, freight customers have back-to-back contracts with freight operators which are designed to protect their interests. The position of freight customers in this context is therefore rather different to that of passengers.

Q3 Freight operators are not directly involved in providing timetable information to passengers, and are contractually bound to provide a certain level of service to their customers. The Regulator has therefore provisionally concluded that the existing contractual obligations under Part D of the Track Access Conditions, combined with Condition 6 of Railtrack's Network Licence which prohibits Railtrack from engaging in undue discrimination, are sufficient to ensure that freight operators do not disrupt the T-12 process, and that their customers' interests are adequately protected. However, he would be pleased to hear the views of consultees on this point.

6. *Obligations under the proposed licence modifications*

- 6.1 The proposed licence modifications would amend the existing timetabling conditions in Railtrack's Network Licence and the passenger train operators' licences³. They would not supersede or duplicate the procedures for delivering T-12 laid down in Part D of the Track Access Conditions and in the Rules of the Plan: rather, the licence provisions would complement the contractual provisions, which will remain necessary in order to underpin the new licence obligations.
- 6.2 The intention is that the proposed licence provisions would set out the high level T-12 objective, whilst recognising the different contributions made towards that objective by Railtrack and train operators.
- 6.3 Railtrack, therefore, would be required to provide amended timetable information to train operators 12 weeks in advance of operation, as well as to plan its engineering work in a timely and efficient manner in order to specify its possession requirements within T-12 timescales. In the case of train operators, the key obligation would be to provide the necessary support to Railtrack to enable it to comply with its obligations and, having received revised timetable information from Railtrack, to supply all the necessary information to timetable information providers (such as telephone enquiry bureaux) within two weeks to enable passengers to make their travel arrangements.
- 6.4 The modifications would also set out the manner in which licence holders should carry out the procedures necessary to deliver T-12 (which are set out in the Track Access Conditions), ie. to have sufficient resources, to participate in consultation, and to try to resolve disputes promptly. Licence holders would also have to notify the Regulator of any significant non-compliance by train operators or by Railtrack respectively in respect of these contractual or licence obligations.
- 6.5 These key obligations, which the Regulator would propose to incorporate into draft licence modifications are summarised in Annex A.

³ The timetabling condition in Railtrack's Network licence (Condition 8) requires Railtrack to publish or procure the publication of the national rail timetable. It also requires Railtrack to provide licence holders and TEBs with access to information about train movements needed in order to carry on their operations. The licence condition for passenger train operators (usually Condition 9) requires them to provide to Railtrack the information about their activities necessary for Railtrack to comply with its obligation to publish the national timetable.

- Q4** The Regulator is seeking views from passenger train operators and from Railtrack on the form and scope of the proposed licence obligations described in Chapter 6 and summarised in Annex A, which the Regulator is considering incorporating into draft licence modifications, having regard to the commitment of the industry to T-12 and the need to restore the confidence of passengers in the industry's capability to provide accurate and timely timetable information.

7. *Track Access Conditions*

- 7.1 As stated above, Part D of the Track Access Conditions sets out the contractual processes and timescales under which changes are made to the rail timetable, including both the main timetable "bid and offer" process and procedures under which changes can be made to the timetable once it has been agreed. The Track Access Conditions are incorporated into every regulated track access agreement. Part D incorporates a special revision process (D3.8) to enable changes to be made during the established timetable (eg. for engineering works).
- 7.2 The latter process was drawn up by a Class Representative Committee⁴, working group in order to implement timetabling processes supporting the delivery of T-12. It was agreed by the Committee and subsequently approved by the Regulator in July 1996, but with a phased introduction did not achieve full national implementation until the Summer 1998 timetable.
- 7.3 The main timetable "bid and offer" process has recently been subject to close scrutiny following a review by the Regulator. His conclusions and recommendations were published last June (in "The Timetabling of The Railtrack Network: A Policy Statement") and have resulted in significant Proposals for Change to Part D of the Track Access Conditions. These Proposals for Change are currently going through the formal consultation process required under Part C of the Track Access Conditions. However, neither the Regulator's review nor the Proposals for Change cover the area of short-term engineering planning.
- 7.4 As stated above, the licence modifications which the Regulator is considering do not supersede the procedures set out in Part D of the Track Access Conditions, but rather complement these processes by defining the high level output or objective. The Regulator would therefore like to hear the views of consultees on whether there are changes which might be made to the contractual procedures in Part D, in order to facilitate the delivery of T-12. The following issues and options were raised in response to the Regulator's November letters.
- 7.5 In its response to the Regulator's 12 November letters, Railtrack suggested that it may be necessary to begin engineering timetable planning for major Bank Holidays earlier

⁴ The Class Representative Committee is the democratically elected industry body created under the Railtrack Track Access Conditions to oversee their operation and consider proposed changes.

than the current Part D timescales require. This would seem to be a helpful suggestion and could be underpinned by amending Condition D3.8 of the Track Access Conditions, although the Regulator notes that a key implication of this is that Railtrack will need to be clear about its engineering possession requirements earlier. As stated earlier, this is not something which can be easily enforced through Part D.

Q5 Subject to confirmation from consultees that earlier planning for key Bank Holidays is desirable, the Regulator proposes to invite Railtrack to develop and table a suitable draft amendment for consideration under the procedures for changing the Track Access Conditions. He would therefore welcome views on this proposal.

7.6 Additionally, there may be an argument for differentiating within D3.8 between engineering work of a minor or routine nature which has minimal or no effect on the timing of trains, and work which is likely to have a significant impact on train operations or require substitute buses.

Q6 The Regulator invites views on whether differentiating between material and non-material possessions would help to streamline the short-term planning process.

7.7 The Regulator was also concerned at the comments in many train operators' responses to his 12 November letters that the dispute mechanism does not provide an effective and timely mechanism for resolving contractual disputes over short term engineering planning. It has been noted that there has been no reference to the Timetabling Sub-Committee in relation to the T-12 process. We recognise that in many instances train planning staff will want to work together to solve problems quickly without resorting to formal dispute resolution procedures. This is clearly important in order to support the effectiveness and efficiency of the process. However, the Regulator also believes that there should be an effective "long-stop" mechanism for resolving contractual issues.

Q7 The Regulator would be interested to hear consultees' views on whether there is scope for a fast-track dispute resolution mechanism in Part D3.8 of the Track Access Conditions, or whether there are alternative options for providing an effective dispute procedure in relation to the short term planning process.

Q8 The Regulator would also like to hear the views of consultees on whether there are any other changes that should be made to Part D3.8 to underpin

more consistent delivery of T-12. In particular, should Railtrack be encouraged to make greater use of its power to make timetabling decisions in the absence of train operators' bids.

8. *Next steps*

- 8.1 Subject to the responses received to this consultation document, the Regulator will want to consider whether formally to seek the agreement of Railtrack and train operators to a modification of their respective operating licences. If such agreement is forthcoming, he will then publish the draft modifications, as required under section 12(2) of the Railways Act 1993.
- 8.2 Should consultees indicate that they would not be prepared to agree to licence modifications along the lines suggested, the Regulator is currently minded to make a reference to the Monopolies and Mergers Commission to invite the Commission to consider the public interest arguments for such modifications. The Commission would then carry out an investigation and report back to the Regulator, identifying any of the matters specified in the reference which operate or may be expected to operate against the public interest; setting out the adverse effects which those matters may be expected to have; and specifying the licence modifications by which this could be addressed. On receipt of such a report, the Regulator may make such licence modifications as appear to him to be needed to remedy the adverse effects specified by the Commission.
- 8.3 The Regulator would also like to see any proposed changes to the contractual processes under Part D of the Track Access Conditions taken forward promptly. The Regulator looks to Railtrack to undertake the necessary development work and subsequently table formal Proposals for Change to the Committee.

Annex A: Key obligations which the Regulator is proposing to incorporate into draft licence modifications

Key Railtrack responsibilities:

- (a) to plan its infrastructure maintenance, renewal and enhancement in a timely and efficient manner to enable it to specify its requirements for engineering possessions so that procedures to revise the working timetable can be completed not less than 12 weeks prior to any particular possession being taken; and
- (b) to provide information to licence holders and TEBs in relation to all planned alterations to the national timetable not less than 12 weeks prior to the date the alterations are scheduled to occur.

Key train operator responsibility:

- (c) to provide the necessary support to Railtrack to enable it to comply with its obligations and, having received revised timetable information from Railtrack, to supply all the necessary information to timetable information providers (such as telephone enquiry bureaux) within two weeks to enable passengers to make their travel arrangements;

Key responsibilities for both Railtrack and train operators:

- (d) to have sufficient resources to comply with the proposed obligations;
- (e) to participate constructively in any consultation carried out by Railtrack;
- (f) to notify the Rail Regulator of any non compliance by Railtrack or train operators in relation to these obligations; and
- (g) to use reasonable endeavours promptly to resolve any disputes arising under the T-12 procedures so as to minimise the risk of delay in providing information to those who need it.

Annex B: Text of letters sent to Railtrack and all Managing Directors of passenger train operators

Text of letter to Gerald Corbett, Chief Executive of Railtrack:

12 November 1998

DELIVERY OF INFORMED TRAVELLER

1. At yesterday's regular meeting, we raised concerns relating to current problems within the industry relating to delivery of the Informed Traveller principle of making timetable information available twelve weeks before any day of operation (T-12). This letter seeks a report from you on the current position on the delivery of T-12, and the actions you are putting in place to ensure delivery in the future. I am aware that Railtrack will be briefing representatives of ORR on this issue on 4 December. However, concerns raised recently with me by members of the public and by train operators mean that I cannot wait until then for a full analysis of the issues from Railtrack's perspective.
2. Railtrack has a vital role to play in this, through its overall management of the industry processes and systems, its coordination through the Zones, and through the early identification of potential problems (such as major engineering blockages). Therefore, whilst T-12 is an industry commitment, I am looking to Railtrack to implement systems and processes which will ensure its delivery, and to identify problems and promote solutions. I cannot accept a situation where industry parties seem to be blaming each other, rather than solving the problems.
3. During the Summer timetable period it appeared that the industry was reasonably close to achieving full compliance with T-12. This position has now been compromised with a poor outcome of T-12 within the Winter timetable and a particular failure for many TOCs to deliver T-12 for the important Christmas period. The position has now been reached where customers on many important routes cannot plan or book their travel arrangements over Christmas. This is unacceptable to me both because passengers are not receiving the service they are entitled to expect and because it may discourage them from using the railway altogether.

4. I am committed to ensuring that the public has access to good and timely information about train times, and fully support the principles of Informed Traveller. The current delivery problems appear to be having a significant adverse effect on passengers, and the consequences of those problems may have continuing adverse effects on the timetable planning process. I am therefore now seeking a report from each train operator, and from Railtrack, on the extent of the current problems, the way in which they are being handled and the actions being put in place to mitigate immediate adverse effects on passengers and to avoid similar problems occurring in the future.
5. I would like your report to cover the following issues:
 - (a) Which of your Zones are regularly achieving the Informed Traveller target of making timetable information available twelve weeks in advance?
 - (b) Which Zones achieved the Informed Traveller target for services running over the Christmas period. Where Zones did not meet this target, how early was information made available in each Zone and for what percentage of train services?
 - (d) Have you identified any specific deficiencies in the delivery processes and/or their enforcement?
 - (e) Have you identified any problems relating to Zonal coordination and, if so, what solutions have you identified?
 - (f) Have you sought to use the dispute mechanisms in the Track Access Conditions to attempt to resolve problems? If not please give your reasons.
 - (h) To the extent that you have been unable to deliver T-12 to date, what specific action plans have you put in place, or are intending to put in place, to ensure delivery in the future?
6. I would be grateful to receive your reply by 25 November 1998. Once I have received reports from all train operators, and from Railtrack, I will want to consider whether I am satisfied that the actions and processes put in place by the industry are sufficiently robust to achieve and maintain the delivery of T-12, or whether further regulatory action would be appropriate.
7. I may wish to refer to or quote from the reports submitted to me in response to this letter in any further industry discussions or wider consultation. Should you wish to keep any part of your response confidential, this should be submitted separately,

clearly identified as "confidential", with a statement included in your main response explaining that a confidential submission has been made, outlining the areas the confidential statement covers, and explaining why it is confidential.

8. I am writing in the same fashion to all passenger train operator Managing Directors.

JOHN SWIFT QC

Text of letter to Managing Directors of Passenger Train Operators:

12 November 1998

DELIVERY OF INFORMED TRAVELLER

1. In June 1997, I wrote to you with my Objectives for Passenger Train Operators. Amongst other issues, these objectives demonstrated to you that I place great importance on the provision of timely and accurate timetable information. I specifically asked you to work with Railtrack to deliver your commitment to a robust and stable timetable which settled the timetable 12 weeks in advance (T-12). At my programme of visits to TOCs at the end of last year and into this year I discussed with you how these commitments would be implemented.
2. During the Summer timetable period it appeared that the industry was reasonably close to achieving full compliance with T-12. This position has now been compromised with a poor outcome of T-12 within the Winter timetable and a particular failure for many TOCs to deliver T-12 for the important Christmas period. The position has now been reached where customers on many important routes cannot plan or book their travel arrangements over Christmas. This should be unacceptable to you in terms of potential revenue loss and the negative impact on your customers. It is unacceptable to me both because passengers are not receiving the service they are entitled to expect and because it may discourage them from using the railway altogether.
3. I am committed to ensuring that the public has access to good and timely information about train times, and fully support the principles of Informed Traveller. I cannot accept a situation where industry parties seem to be blaming each other, rather than solving the problems. The current delivery problems appear to be having a significant adverse effect on passengers, and the consequences of those problems may have continuing adverse effects on the timetable planning process. I am therefore now seeking a report from each train operator, and from Railtrack, on the extent of the current problems, the way in which they are being handled and the actions being put in place to mitigate immediate adverse effects on passengers and to avoid similar problems occurring in the future.
4. I would like your report to cover the following issues:
 - (a) whether you are regularly achieving the Informed Traveller target of making timetable information available to your passengers twelve weeks in advance;

- (b) whether you achieved the Informed Traveller target for services running over the Christmas period. If not, how early was information made available and for what percentage of services?
 - (c) Where timetable information and reservation systems remain unavailable, what actions are you taking to rectify this and how are you mitigating the impact of this lack of information on your customers?
 - (d) To the extent that you have not met the Informed Traveller target, what are the reasons for this? Please identify separately in your response general issues and issues specific to the Christmas period.
 - (e) Have you identified any specific deficiencies in the delivery processes and/or their enforcement?
 - (f) Have you sought to use the dispute mechanisms in the Track Access Conditions to attempt to resolve problems? If not please give your reasons.
 - (g) What resources have you committed to the delivery of T-12?
 - (h) To the extent that you have been unable to deliver T-12 to date, what specific action plans have you put in place, or are intending to put in place, to ensure delivery in the future?
5. I am aware that some train operators have successfully implemented T-12. If your company is one of these, I would be grateful to receive your comments on the effectiveness of the processes you have adopted, and whether you believe they are sufficiently robust to maintain delivery of T-12 in the future.
6. I may wish to refer to or quote from the reports submitted to me in response to this letter in any further industry discussions or wider consultation. Should you wish to keep any part of your response confidential, this should be submitted separately, clearly identified as "confidential", with a statement included in your main response explaining that a confidential submission has been made, outlining the areas the confidential statement covers, and explaining why it is confidential.
7. I would be grateful to receive your reply by 25 November 1998. Once I have received reports from all train operators, and from Railtrack, I will want to consider whether I am satisfied that the actions and processes put in place by the industry are sufficiently robust to achieve and maintain the delivery of T-12, or whether further regulatory action would be appropriate.

8. I am writing in the same fashion to all other passenger train operator Managing Directors and to Gerald Corbett at Railtrack.

JOHN SWIFT QC

Annex C: Summary of key T-12 deadlines and terms

Key deadlines

T-26	Notification by Railtrack of dates for each short term planning cycle, and likely engineering works.
T-22	Final notification by Railtrack of possessions and trains affected by engineering work or other short-term changes.
T-18	Deadline for "bids" by train operators for retiming/rerouting trains affected
T-14	Deadline for timetable "offers" made by Railtrack.
T-12	The "uploading" of train timetable information into the national train database (TSDB) 12 weeks before the date of operation.

Other terms

Informed Traveller	An initiative agreed at the time of privatisation between the then Secretary of State, the Chairman of Railtrack and the Chairman of the British Railways Board to improve the information available to rail travellers. T-12 was an important element of this.
Rules of the Plan	The agreed procedures and standards for the timetable bidding process and for short term timetable planning (STP).
STP	Short Term Planning (ie. planning within the bi-annual timetable rather for the bi-annual timetable).
TSDB	Train Service Data Base – the central timetable database owned by Railtrack, which feeds data to other systems including train operators' retail and reservation systems