

Ian Williams
Manager, Track Access
Telephone 020 7282 2092
Fax 020 7282 2118
E-mail ian.williams@orr.gsi.gov.uk

13 June 2008

To those listed in Annex A

Dear Sirs

Application for an Interim Order and to adjourn the hearing of the appeals in respect of TTP210

We refer to Network Rail's application dated 13 June 2008 in which it has asked ORR to make:

- (i) an interim order that Network Rail be permitted to take all of the remaining possessions which are the subject matter of this dispute after week 21 pending the final determination of Network Rail's appeal by reference TTP210; and
- (ii) an order that the hearing of Network Rail's appeal by reference TTP210 be adjourned until after the last of the said possessions.

In its application Network Rail has sought to address the questions which we, in relation to a previous interim application, said that we would ask the parties to address in relation to an interim application. For the avoidance of the doubt, these questions are attached again at Annex B.

In light of the application received, we have to consider urgently whether we should make the requested orders or not. In order to do this we consider that we need to provide the Responding Parties with an opportunity to make representations in response to Network Rail's application and that we would require an oral hearing. Therefore, going forward, the process for dealing with the application will be as follows:

1. Responding parties should submit to us, copied to the other parties, any submissions they wish to make regarding Network Rail's application including Network Rail's responses to the interim order application questions at Annex B by **10.00 am on Monday 23 June 2008**;
2. We would then hold an oral hearing regarding the application. Provisionally, the oral hearing will be held on **Wednesday 25 June 2008**. The details of the hearing will follow. At the hearing all parties would be given the opportunity to make any additional representations and to answer any questions we have regarding the application or submissions.



3. ORR would aim, if possible, to issue its decision regarding the application by the end of June 2008.

Please direct all future correspondence on this matter to me as the nominated point of contact at ORR. Unless I am advised to the contrary, for the purposes of this issue, the nominated contacts are those to whom this letter is addressed and copied to and I have sent a copy of this letter to each of these contacts.

Yours faithfully

A handwritten signature in black ink that reads "Ian Williams". The signature is written in a cursive, slightly slanted style.

Ian Williams

ANNEX A

Ian Marlee, Network Rail Infrastructure Limited



Nick Gibbons, English Welsh and Scottish Railway Limited

Ian Kapur, GB Railfreight Ltd

Simon Barrett, Freightliner Ltd

Robert Hodgkinson, West Coast Trains Ltd

Mark Haslam, London & Birmingham Railway Ltd

Phillip Hassall, First Keolis Transpennine Ltd

cc. Tony Skilton, Access Disputes Committee

Graham Ward, XC Trains Ltd

Gabrielle Ormandy, Network Rail

ANNEX B

- (a) whether the parties accept that ORR has the power to make an interim order in the terms requested by the Applicant pursuant to Condition M7(c) and/or Condition M10 or any other provision of the Network Code;
- (b) whether damages or compensation would be available and an adequate remedy for any party injured by the granting of the interim order or the failure to grant the interim order if the appeal was subsequently decided in its favour;
- (c) whether the status quo would be preserved by granting or refusing the interim order;
- (d) what disadvantages or detriment would be suffered by any of the parties if the interim order is granted or refused;
- (e) whether granting the interim order sought by the applicant is likely to dispose of the whole dispute between the parties;
- (f) whether the appeal is likely to succeed when the full appeal is heard;
- (g) whether the parties agree that the above matters are relevant considerations which the ORR should take into account;
- (h) whether there are other considerations which any party considers ORR should take into account in deciding whether or not to grant an interim order;
- (i) whether there are any measures which can be taken by any party to mitigate the harm to any other party if the interim order is granted or refused;
- (j) on the wording or scope of any interim order in the event that ORR decides that such an order should be made;

on the length of time any interim order should have effect. We are conscious of the fact that the longer the period of time any interim order might cover, the greater impact this would have on the appeal being determined and on the parties. Any interim order application should therefore explain what period of time it is being requested to cover and why.