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26 June 2008

To those listed in Annex A

Dear Sirs,

**NOTICE REGARDING INTERIM APPLICATION OF NETWORK RAIL CONCERNING TTP210**

On 13 June 2008 Network Rail Infrastructure Limited ("Network Rail") served an application for a fourth interim order and an application to adjourn the appeal hearing in respect of the Timetabling Panel's decision TTP210 dated 19 May 2008.

In the interim order application Network Rail asked ORR to order that:

- i) 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) the hearing of Network Rail's appeal by reference TTP210 be adjourned until after the last of the said possessions.

Although six train operators made the reference to the panel in respect of TTP210, only three of them, EWS, Freightliner and GB Railfreight opposed Network Rail's application. Since receipt of the application, ORR has received written confirmation from these parties that they have withdrawn their objections to the remaining possessions in dispute and do not oppose the adjournment of the appeal hearing.

**ORR's Decision on the Application**

In light of the fact that all relevant parties have agreed to Network Rail's application, we have not considered the merits of the application and consider that we should grant the orders sought by Network Rail on the basis that the application is uncontested.

ORR therefore orders that:

- 1. Pending the final determination of this matter, Network Rail be permitted to proceed with all remaining possessions after week 21 which are covered in the Timetabling Panel's decision in respect of reference TTP210 dated 19 May 2008; and

2. The hearing of Network Rail's appeal by reference TTP210 be adjourned until a date after Monday 11 May 2009, which is the Monday following the week in which the last of the possessions referred to in paragraph 1 of this order is scheduled to take place.

This decision is without prejudice to any of the parties' other legal rights as they may be determined by the Timetabling Panel, or on appeal to ORR or any other body, in relation to reference TTP210 or any other reference.

### **Going Forward**

Prior to the last of the possessions, which are the subject matter of the appeal, occurring in May 2009, ORR will review its timetable for hearing the appeal and write to the parties with details of the appeal process going forward. Under the present timetable, Respondents' representations are due to be submitted to ORR, and copied to all parties, no later than 8 July 2008. Respondents may still wish to file their representations by this date. If not, ORR will revise the date for service of the Respondents' submissions as part of the revised appeal timetable that it will issue next year.

I am placing a copy of this letter on our public register and our website.

Yours faithfully

**Michael Beswick**

## **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

Roberts 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