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## **MODEL CLAUSES FOR TRACK ACCESS AGREEMENTS**

I refer to the above consultation paper. You will have received a full response on this document from National Express Group which has been compiled from the views of the five train operating companies within the Group. I would, however, like to take this opportunity to make some individual points with respect to Central Trains' experience.

### **1. Local Output Statements**

We note the intention to place obligations within local output statements upon both parties to a Track Access Agreement. While we recognise that there is a case for reciprocity in this item, we are concerned that Railtrack may place obligations upon operators in respect of Specified Equipment which may not be acceptable, or should be properly handled through application of Access Condition F or its successor in the proposed *Network Code*.

### **2. Network Change**

We recognise the obligation for an operator to recompense Railtrack for its project costs should the operator be the sponsor of any Network Change or proposal to modify the infrastructure. However Central has noted over time a repeated tendency for Railtrack project development costs to inflate alarmingly during the project evaluation stage, with no obvious reason.

We are of the view that Railtrack's project development costs are not effectively managed and we would urge the Regulator to consider the adoption of a principle that an operator is not liable for full development costs if such a proposal is discontinued or abandoned at the early stages of evaluation. Adoption of some form of cap on such costs facing operators would incentivize Railtrack to properly manage such project management overheads.

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### **3. Vehicle Change**

We recognise the critical role of third parties in certain industry activities, and particularly with respect to the introduction and acceptance of new vehicles onto the Network. While it is clear that Part G of the current Access Conditions has undergone considerable re-evaluation as part of the establishment of a *Network Code*, we would urge the Regulator to press on with the assessment, and revision where necessary, of Access Condition F. This has long been recognised as deficient and the opportunity to improve the provisions for introduction of new rolling stock should not be lost.

### **4. Moderation of Competition**

The current Schedule 10 provisions contained within franchised operators' access agreements are set to expire in April 2002. We would have thought that some advice on the future of moderation would have emerged from the Model Clause review, particularly as it is taking place in tandem with the Periodic Review.

While the issue may have been influenced by the passage of the Competition Act, we regard it as essential that the Regulator keeps a watch on the development of genuine competition between operators: we have previously considered that the adoption of access agreements containing revenue share provisions between an operator and Railtrack could, conceivably, influence Railtrack when allocating scarce spare remaining capacity between competing train service providers.

### **5. Future supplemental agreements**

We would urge the Regulator to review and reissue, where necessary, an updated edition of *Criteria for the Approval of Passenger Track Access Agreements*. If I recall correctly this was last reviewed and issued over three years ago, and it will be of value to all parties if a revised set of guidance notes could emerge as part of this review.

I hope these observations have been of assistance, and I look forward to receiving the further proposals on Schedule 5 and the Access Conditions from your office in the very near future.

Yours sincerely

**John Czyrko**  
Contracts Manager