

# THAMESLINK

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Paul Carey  
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Dear Paul,

## **MODEL CLAUSES FOR TRACK ACCESS AGREEMENTS: A SECOND CONSULTATION DOCUMENT**

Thank you for the opportunity to comment on the above document. In general we are supportive of the conclusions and encouraged by the open discussion process facilitated by the Regulator in order to arrive at the implementation of amended Track Access Agreements, which are so important to the operation and enhancement of the rail network.

ATOC has made a full and measured response and we endorse and support its views. I would, therefore, only highlight the following issues, which are of particular concern to us.

The Template Franchise Agreement is very focussed on the delivery of continually improving performance and the penalties on TOCs for non-delivery are extremely onerous. As Railtrack is a key player in the delivery of performance, these Model Clauses are essential to meeting the requirements of the sSRA. Consequently we support the need for a 'fuller' Commercial Purpose Clause.

We believe that Local Outputs need to be TOC based if TOCs are to deliver their contractually committed obligations under the Franchise Agreement.

An essential part of the Franchise Replacement Process is the TOC facilitation of Network Enhancements, potentially with the use of a SPV or similar financing vehicle. Where a TOC or Franchisee is committing to fund significant capital expenditure, there must be a process to ensure that it can enjoy the benefits directly of this risk investment to meet either increased demand or provide 'white-space' to improve performance.

Finally, we share ATOCs view that the Access Charge Review and Model Clauses changes should be brought together so that TOCs can fully appreciate the impact on their business (and any replacement franchises for which they may be bidding). An early determination of Model Clauses would be extremely helpful in the assessment of risk in bidding for replacement franchises.

KEN WATSON  
Finance Director