



31 January 2000

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Tom Winsor
Rail Regulator
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Dear Tom,

MODEL CLAUSES FOR TRACK ACCESS AGREEMENTS

I am writing to you on the behalf of Virgin Rail Group in response to your consultation regarding the improvement of the quality of track access agreements for the use of Railtrack's network.

We strongly support the improvement of track access agreements, and the introduction of model clauses as a means of achieving this objective. In terms of a detailed response to the your consultation document, we have been involved in the production of the response that will be sent to you by the Association of Train Operating Companies (ATOC). We fully support this response.

In addition, I feel that it is worth making the following key points about track access agreements, the opportunity for their improvement, and our experiences with West Coast Trains Limited and CrossCountry Trains Limited.

Overall, the traditional form of track access agreement does not appear to have worked well when it comes to incentivising both the Train Operating Companies and Railtrack to develop the network and improve operational performance. In the future if significant investment is to be delivered following the SSRA's franchise replacement programme, track access agreements must contain stronger incentives.

In order for an agreement to improve performance, both parties need to be incentivised by such an agreement. In this area, we feel that the 10th Supplemental Agreement to the Track Access Agreement of 30 April 1995 between Railtrack PLC and West Coast Trains Limited works well.

The PUG 2 Contract, as it is informally known, contains incentives for both parties which are directly focused on the improvement of service levels and operational performance on the West Coast Main Line. The key to these is the commercial purpose. This clause provides a clear and concise target that both parties are required to work to. It defines how both parties should work together, not only during the upgrading of the West Coast Main Line, but also during the remainder of the agreement when the upgrade has been completed. In addition the commercial purpose is supported by a series of contractual remedies, similar to what would normally be expected in a commercial contract.

The schedule 5 contained within the PUG 2 contract is an output-based specifications. This enables both parties to take responsibility for the methods by which the outputs are delivered. Future agreements should continue to use output-based specifications, especially for major route upgrades. However the structure of this schedule should enable stopping patterns to be amended within the agreed and protected maximum scheduled journey times, and the number of passenger train slots set out in an agreement. This enables train operators to respond to future market changes, whilst protecting access rights provision. This will be particularly important for future agreements covering franchise periods of 15 years or over.

Many thanks for providing this opportunity to comment on the arrangements for track access agreements.

Chris Green
Chief Executive
Virgin Trains