

28 October 2004

Michael Dawson  
Deputy Director, Track Access  
Office of the rail Regulation  
1 Waterhouse Square  
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Dear Mr Dawson

**Use Quota and Use Period for the Use It or Lose It Mechanism in part J of the Network Code: Consultation**

In response to your consultation, SPTE is seeking clarification of how level of use quota and duration of use period applies with respect to train slot rights to the following:

- Summer Dated Services
- Boxing Day Services
- Additional Services on the Four Sundays before Christmas

In each of the above examples, the train slots requested and contractualised in the Franchise Agreement will be fully utilised except if there is disruption of any kind. However, there is clearly more than 90 days between each interval when the train slots are required.

In addition, what happens if access is denied or services can not run for more than 90 days? There have been three relatively recent incidents of this in our area. Firstly, the closure due to flooding of the Argyle Street tunnel. SPTE would not expect Use It or Lose It to be used as a mechanism to implement a Network Change by stealth. Secondly, during a period of difficulty with staff relations, services were thinned to improve reliability for what turned out to be a prolonged period and thirdly, following Hatfield reduced timetables had to be introduced.

In none of the above circumstances would it be acceptable for there to be a resulting loss of rights.

Provided the above are protected, SPTE have no objection to the proposal. If they are not, then SPTE does not support this proposal.

SPTe has no objection to this response being published in the normal manner.

Yours sincerely



**Malcolm C Reed**  
Director General

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