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Dear George,

Alliance Rail Holdings (Alliance) Section 17 and Section 18 Applications: Great North Western Railway (GNWR).

Thank you for your response dated 13 September to consultation on the Alliance track access applications.

Alliance received a significant number of responses to its recent consultation for WCML access rights, including your own. This letter addresses the specific points you made. We have now written to all consultation respondents in a similar manner.

At the industry stakeholder meeting held in York on 18 August, and in the written responses that followed, a number of people felt it was difficult to understand the reasons for Alliance's applications being split, with one to be made under Section 18 of the Railways Act and one under Section 17. In view of those comments and Alliance's further work with Network Rail we have decided that the formal submission to the ORR will be made as one Section 17 application. This means that there is no longer any interdependence between applications and that issues raised separately during consultation have been consolidated into a single list.

Proposals for Manchester to Scotland Services

Alliance notes the comment by First/Keolis Transpennine Limited (TPE) regarding its 'requirement' to run additional services from December 2013 to meet the terms of its revised franchise agreement.

The details of the proposed additional services have not yet been disclosed, despite the franchise extension being announced by the Secretary of State on 5th August 2011. The revised franchise agreement has yet to appear on the Department for Transport's (DfT) web site. Since your response has also been redacted, it is

impossible for Alliance to comment on the degree to which Alliance's proposals might conflict with TPE's.

In fact, the only route section on which re-routed Manchester to Scotland services might conflict with Alliance's proposals is between Ordsall Lane Junction (Manchester) and Parkside Junction (Newton-le-Willows). There is no revenue competition on this section unless TPE plans to call at Eccles. As far as capacity is concerned on this section, Alliance understands that headway improvements are planned alongside the electrification work. Since the Office of Rail Regulation (ORR) announced in September that beyond December 2013 it would only grant quantum track access rights for the WCML at this stage, we would expect there to be enough capacity to accommodate both services.

I am surprised that, given the importance placed by TPE on the proposed electric services between Manchester and Scotland - and other additional trains hinted at in your response – there has as yet been no application for the track access rights necessary to deliver the 'new franchise commitments'. This either reflects continuing uncertainty over the ability to deliver the proposals, or an alarming complacency that the access rights will be granted ahead of any potentially competitive applications such as that from Alliance.

You also refer in your response to the September announcement of Siemens as the preferred bidder for additional Desiro units for both London Midland and TPE. The reference to the High Level Output Statement ("HLOS") is disingenuous because the HLOS for Control Period 4 (CP4) did not include any provision for EMUs for TPE and December 2013, the proposed start date, falls within CP4. The HLOS for CP5 will not be announced, even in draft form, until the middle of 2012. In any case, I note that the procurement of the additional 10 EMUs is still 'expected' rather than 'committed'. Your own web site (press release dated 14 September) notes that the deal is still 'subject to DfT approval of the business case'.

In view of the above, Alliance does not consider the proposed Manchester to Scotland electric services need conflict in any way with Alliance proposals. For its Blackpool and Carlisle services, Alliance will work with Network Rail to find paths that are valid within flexing rights.

Finally, I would refer you to TPE's response earlier this year to consultation on the Northern Route Utilisation Strategy (RUS):

“In the long term, when the full North West electrification scheme is completed, including the Bolton corridor, it will be best to revert to the Bolton and Chorley route for two reasons. Firstly, it is quicker between Manchester and Preston on this route rather than via Wigan. Secondly, Scottish intermediate traffic is more significant at Bolton and, to a lesser extent, Chorley.”

Alliance would welcome confirmation that this is still TPE’s preferred strategy for the route.

Separating Section 17 and 18 applications

As indicated earlier, Alliance will now progress one Section 17 application. This addresses all your concerns about the dependency between the two applications.

I am confident that the information given in our proposed application, at the industry stakeholder meeting on 18 August and in this letter is sufficient detail for the ORR to come to a positive decision.

Timing of the applications

You assert in your letter that both applications are premature and suggest ‘there are more appropriate ways to log the Alliance aspirations’. This is clearly not the case, and one of the concerns over a number of months for Alliance is what appears to be a disturbing lack of understanding within the industry of many of its own procedures.

Unlike franchised operations, where any plans for new services are underwritten by the DfT, open access operators have to secure access rights before they can justify appropriate investment to commence operations. It is not clear what other routes are available to Alliance other than seeking access rights supported by a sound business case and taking this to the ORR.

I would also point out that Alliance was encouraged by the ORR to make an application for its WCML proposals late in 2010, as were all other parties with aspirations to operate additional services on the route. As you know, relatively few applications were made and the majority of the proposals were refused by the ORR in March this year. To date, only Alliance had publicised its intention to revise and re-submit its application. However, since we went out to consultation in August, London Midland has also submitted an application for rights to run additional trains on the WCML. Is their application also premature? Given the number of infrastructure interventions and franchise changes expected on the WCML over the next 7 years, TPE would presumably say that any application from any operator before 2018 was premature. That is clearly unacceptable.

You quote the 1993 Railways Act in aid of your argument. However, under the Act an application for track access rights may be made at any time and should be considered only against the background of access rights that already exist. I am confident that the ORR will give fair and equal consideration to any applications that it receives.

Performance modelling

You expressed concern that no performance modelling had been carried out. As explained at the industry stakeholder meeting, Alliance and Network Rail agreed that it was inappropriate to model the additional paths before further development of the WCML timetable by the Event Steering Group (ESG). We expect that Network Rail will model the performance of any redeveloped timetable.

We note that TPE did not deem it necessary to provide any analysis of performance impacts of additional stops at Buckshaw Parkway in its recent application to the ORR for a Supplemental Agreement.

Prejudicing future plans

Alliance has, to the best of its knowledge, taken account of all published plans and strategies in formulating its proposals. There are, however, a large number of rail projects and schemes in planning stage at the moment. Many of these are understandably confidential and details are not readily available to Alliance, even though they may be known and understood by Network Rail.

Alliance has therefore taken a deliberate decision to apply for quantum rights only to give Network Rail as much flexibility as possible in planning future services. For example, we anticipate that pathing time might be added between Heaton Norris and Guide Bridge to ensure that WCML paths and trans-Pennine paths link up. In any case, Alliance would expect to be involved in a Trans-Pennine Event Steering Group when a timetable recast is planned for the route.

Rolling stock timescales

I note TPE's experience of protracted timescales in the procurement of rolling stock. However, you should note that, as Alliance is not dependent on taxpayer funding of the investment, the DfT is not involved in procurement of our trains.

At least one of our rolling stock options does not depend on entirely new designs. Alliance is therefore confident that, depending on the rolling stock procurement option chosen, it could still commence operations in 2014. In view of delays so far,

we now expect to start during the May 2014, rather than December 2013, timetable. Please note that it may not be necessary for us to await the outcome of the West Coast Event Steering Group to place an order, though it will be necessary to be granted quantum rights. We will spell out the timescales and the dependencies in documentation supplied to the ORR with our application.

Degraded or restricted operation

Alliance does not understand why this is more of an issue for the Leeds to Manchester route than any other but, as indicated in the previous consultation response, we are happy to discuss and agree a suitable contingency plan if awarded quantum rights. We do not believe it is sensible to do this until a detailed timetable for normal operation has been agreed with Network Rail. Alliance is content to look at a number of options including, for example, terminating trains short of destination, as long as other operators are prepared to honour Alliance-only tickets in the circumstances.

Revenue abstraction

The case against open access operators for their abstraction of revenue from franchised operators has been much debated within the industry, and tested in court. The ORR's 'not primarily abstractive' test, which ensures that any abstraction is outweighed by benefits, is now well-established. Alliance expects the ORR to apply the test to this application in the same way as all previous open access applications, notwithstanding the consultation that is currently under way regarding possible different access charging regimes. Alliance is confident that its proposals will meet the 'not primarily abstractive' test. Alliance will, of course, supply its own revenue forecasts and business case to the ORR who will no doubt prepare their own calculations of the generation to abstraction ratio and economic benefits.

Alliance agrees with the ORR that it is important that franchise bidders are aware of open access competition before they submit their bids so that they can factor it into their pricing. This elimination of risk should allow bidders to offer a higher premium (or lower subsidy) than otherwise. We note that the TransPennine franchise will expire at some point between April 2014 and March 2015. Given that Alliance does not expect to commence operations until May 2014 we believe that any impact on the current First/Keolis franchise will be minimal.

Alliance also notes that TPE has 'open access competition' in part from First Hull Trains, but Alliance can find no response from TPE (in any form) on the ORR

website to any previous consultation on service introductions or expansion by this open access operator.

Business case

Whilst Alliance has provided an analysis of expected economic benefits as part of its consultation, it has – unsurprisingly - not shared its full business case with those consulted. A detailed business case will, of course, be supplied to the ORR with Alliance’s formal applications. We do not see how TPE is in a position to comment on the viability of Alliance’s business case without detailed information about our costs and revenue forecasts. We expect the ORR to make its own judgment on the viability of the business case.

Route Utilisation Strategies (RUS)

Alliance wishes to point out that any services proposed in Network Rail's strategic plans such as RUSs are operator neutral. Many respondents clearly have not grasped this point and still believe that the incumbent franchise will automatically operate any new services.

You claim that there are other applications that are more consistent with established RUSs than Alliance’s. I am aware of some *plans* and *aspirations* that could be considered to fulfil some of the RUS recommendations, but as yet I have seen no track access *applications* or funded proposals that do this.

The only way Alliance can pass the 'not primarily abstractive' (NPA) revenue test is to offer services on routes that are not well served currently. If the test were to be removed or relaxed, Alliance would be better able to match RUS (and Northern Hub) recommendations. Our current proposals are designed to meet RUS recommendations without compromising the NPA test. For example, we propose to provide additional capacity between Huddersfield and Leeds, which is a recommendation of the Northern RUS.

Northern Hub and regional strategies

Alliance has worked closely with Network Rail on this scheme and has kept the Northern Hub team informed of its plans. Alliance's proposed services do not exactly match those proposed in the preferred service option for the Northern Hub. However, as Network Rail makes clear in the Manchester Hub Rail Study, “*Our preferred option provides the capability for significant improvements to rail services across the North, including inter-regional, commuter and freight services*”. In other words, the

Northern Hub project is about *creating the capacity*, rather than delivering the proposed service patterns themselves.

Despite suggestions from some respondents that the Northern Hub services are committed, Alliance's understanding is that this is not yet the case. Funding for new services, and rolling stock to resource them, is likely to be considered as part of the HLOS for CP5. Since most of those services will require further subsidy by the taxpayer, Alliance doubts that they will all be implemented. Alliance will operate without taxpayer subsidy.

We note your comments regarding the support of Merseytravel, TfGM and Metro for improved regional connectivity, especially on the Liverpool to Newcastle corridor. Alliance does not doubt this, but notes that all three regional transport agencies have also expressed support – in varying degrees – for Alliance's proposals. Alliance is confident that both objectives can be delivered by the Northern Hub and other related schemes.

Validated timetable

Alliance re-iterates that the paths supplied so far identify the *capacity* that is currently available and that is expected still to be available in some form from December 2013. This work was undertaken to support a workable solution. These agreed paths have been flexed only within Network Rail's contractual rights. The validation work does not necessarily represent the actual timetable for Alliance services. This will be confirmed only when:

- a) the rolling stock has been selected, confirming the timing characteristics and operating requirements, and
- b) the relevant Event Steering Group(s) have determined whether there should be any other significant changes to the current timetable, both on and off the WCML.

Alliance expects to improve on the paths agreed so far by eliminating some pathing time and excessive dwell times, by taking advantage of planned infrastructure interventions (e.g. electrification and headway improvements between Newton-le-Willows and Manchester Victoria and on the North Trans-Pennine route) and by negotiating suitable paths in any timetable re-cast.

You object that Network Rail has assumed in the capacity analysis that existing track access agreements continue. It is difficult to see what other approach they could have taken. We would be pleased to see your suggestions for an alternative means of assessing current capacity. You also complain that there are significant 'train

planning issues (to be resolved) to deliver the Section 18'. Alliance refutes this, since the paths have been validated against the December 2011 Timetable Planning Rules.

Consultation timescales

Alliance notes your objection that further information about the agreed paths, indicative of the capacity available, was not provided quickly enough after the industry stakeholder meeting. Network Rail made clear at the time of the meeting that the paths could be viewed in TPS. After the relevant train schedule details were e-mailed instead, Network Rail and Alliance agreed to delay the consultation closure date from 6th to 16th September.

Limited capacity at Leeds

Alliance notes TPE's concern about the availability of capacity at Leeds, and between there and Neville Hill depot, particularly in the peaks. Whilst I do not wish to make light of the difficulties of operating in this area, please note the following points:

- Alliance only wishes to operate one train every two hours.
- If a timetable solution with shorter turn-rounds can be identified, Alliance would welcome it.
- It appears that the headways and junction margins between Neville Hill and Leeds are not always adhered to in the current plan – a review of the Timetable Planning Rules might be helpful.
- There are other options for stabling rolling stock between journeys to/from Leeds, such as inter-working with the Euston to Bradford Interchange service. There is platform capacity at Bradford in the peaks.
- In the December 2011 timetable, there are some shunt moves at the east end of Leeds station that could be avoided with different rolling stock diagrams or if the route to York was electrified.
- There is a 14 minute dwell for a DRS charter train in platform 8 at Leeds in the middle of the evening peak. Is this good use of capacity?

In short, Alliance is confident that, one way or another, capacity can be found at Leeds, even in the peaks.

Standard hourly pattern

Alliance notes TPE's concern that Alliance's proposals do not fit into a standard hourly pattern. It is true that we do not seek an hourly service at this time, but we

would welcome a standard two-hourly pattern. However, there are very few parts of the railway where there is a truly standard hourly pattern throughout the day. Apart from non-standard peak workings at Euston, Crewe, Manchester and Leeds we have had to seek capacity around non-standard freight, charters and network services. Despite this, on the route between Leeds and Stalybridge, which is where our services have the biggest overlap with TPE's, Alliance paths are standard for most of the day.

Track access charging regime

Open access operators are currently restricted to operating services on routes where the 'not primarily abstractive' test is passed. The ORR is now examining ways in which these restrictions can be removed in exchange for higher charges.

Alliance is well aware that there is the possibility that the track access charging regime – and corresponding access restrictions – may change over the next few years. Alliance is basing its business case on rights being granted under the current charging regime.

Any changes to the current charging regime would clearly have an impact on franchised operators as well so are any current 'franchise plans' also premature?

Economic benefits

Open access operations, which receive no funding from the taxpayer, bring a number of economic benefits to the British economy. These arise from lower fares, from better journey opportunities, from improved connectivity and also from direct and indirect jobs created. An element of competition also allows the Department for Transport (DfT) to loosen its specification for franchised services or to focus its subsidy on services that would otherwise be uneconomic. In any case, the MVA report (*Modelling the Impacts of Increased On-rail Competition Through Open Access Operation, July 2011*) that supports the ORR's recent consultation document on competition, suggests that it is possible for open access actually to increase premiums on long-distance routes.

At the recent ORR workshop on that consultation the spokesman for First Group made it clear that First Group is in favour of such a change.

I note your views that some of the wider economic benefits Alliance has identified are overstated. The employment multiplier of 2.2 used by Alliance is higher than the figure you quote from the English Partnerships 'Additionality Guide' from 2008. That guide is aimed very much at property development schemes, which provide mainly

office or retail jobs. The guide also quotes evidence from the Scottish Executive that suggests jobs in the oil industry have an employment multiplier effect of as much as 10.5. The Scottish Executive's multiplier for the Transport Operations sector is 2.8. Alliance has used the more conservative figure of 2.2 from the UK Office of National Statistics. I am sure the ORR will take your views on our figures into account.

I have tried to address all your concerns in this letter. I appreciate that you may still disagree with some of the responses. However, if you feel there are some key points that I have not dealt with, please contact me again. I would suggest we then meet to discuss these outstanding issues.

A copy of your response and this letter will be made available to the ORR to accompany Alliance's applications.

Yours sincerely,



Chris Hanks
Head of Development