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12<sup>th</sup> July 2010

Dear Matt,

## **NOTICE IN RESPECT OF BREACH OF SERVICES AGREEMENT**

The Secretary of State for Transport (the "**Secretary of State**"), Directly Operated Railways and East Coast Main Line Company ("ECMLCo") entered into a services agreement (the "**Services Agreement**") on 13<sup>th</sup> November 2009.

Words and expressions defined in the Services Agreement have the same meaning when used herein unless the context otherwise implies.

By letter dated 5<sup>th</sup> February 2009, ECMLCo was notified by the Secretary of State that it had contravened Committed Obligation 1.4:

- 1.4 ECMLCo shall ensure that it responds to all written correspondence (including e-mails and web forms) from customers within 10 weekdays from the date of receipt of such correspondence.

On two occasions (P10 2009/10 & P1 2010/11) ECMLCo has informed the Department for Transport that it has failed to meet this target ("the Contravention").

ECMLCo is taking the following steps in order to secure compliance with the Relevant Committed Obligation:

1. ECMLCo will provide weekly reports to the Department for Transport detailing the outstanding correspondence and providing an early warning system for impending problems.

The Secretary of State is satisfied, having regard to the above-mentioned step(s), that ECMLCo is, for the time being, taking appropriate steps for the purposes of securing compliance with the relevant Committed Obligation.

The above being the case the Secretary of State hereby gives ECMLCo notice, that no further steps will be taken in relation to the Contravention.

This Notice is without prejudice to any action (including action under the Services Agreement) that the Secretary of State may take in relation to any future contravention of the Services Agreement, including the Contravention identified herein.

A copy of this letter will be placed on the Secretary of State's public register.

Yours faithfully

A handwritten signature in black ink that reads "Rowan Smith". The signature is written in a cursive style with a horizontal line underneath the name.

**Rowan Smith**  
For and on behalf of the Secretary of State

**Note from the Enforcement Panel – East Coast Main Line Co. (ECMLCo)  
7 June 2010**

**Present:** Robin Marie – FM ECMLCo  
Chantal Pagram - CM ECMLCo  
David Rea – DM RPER  
Jan Heckscher – RPER  
Roy Calcutt – Legal

**Issue:**

Enforcement Panel was requested to review two contravention issues:  
Firstly; Committed Obligation (CO) 1.4 ECMLCo to respond to all written customer correspondence within 10 working days:  
Secondly; ECMLCo SQMS periodic thresholds for Stations, Trains and People.

Under their committed obligation (CO) 1.4 ECMLCo is required to respond to all written customer correspondence within 10 working days. On two occasions (P10 2009/10 & P1 2010/11) ECMLCo had informed the DfT that they had failed to meet this target.

An agreed Action Plan was put in place to remedy the situation after the first failure that had occurred in the first period of operating the replacement management system; this was discharged on 27 February 2010. The second failure followed a system breakdown, which resulted in the wrong dates being printed on correspondence. This was identified and rectified before the correspondence was sent out, which caused the delays.

ECMLCo supply the DfT with a weekly report detailing the outstanding correspondence and providing an early warning system for impending problems.

ECMLCo SQMS thresholds for Service Year 1 are contained in the normal documents required by the NRFT, these are then superseded as detailed in CO 3.4, which raises the benchmarks by 1%. Since the start of the Services Agreement there have been a number of occasions when ECMLCo not met their CO 3.4 thresholds, even though the NRFT thresholds have always been achieved or exceeded. Each time the level of underachievement against CO 3.4 has been a fraction of a percentage point. On all but two occasions the underachievement disappears when the period results are rounded to zero decimal places.

**Decision:**

Discussion opened with an acknowledgement that any action taken would be contractual rather than legislative; due to the Service Agreement in operation for ECMLCo. However the TOC would be treated 'as if' it were a normal franchised operator.

The bad weather during P1 would have caused an increase in customer correspondence to the TOC, thus compounding the situation. Panel recognised that this had been a minor glitch and ECMLCo had made every effort to rectify the situation. The FM team would write to the TOC to that effect and no further action would be taken. ECMLCo to continue to provide their weekly reports.

The Panel also discussed the ECMLCo SQMS results; it concluded that it is correct that the results be shown to whole numbers as presented within the agreement, and that the measurement level for Service Year 1 was that specified within the NRFT, which applied (and was met) up to and including Period 13 2009/10, thus there was no contravention of CO 3.4.