

Extract from Ticketing and Settlement Agreement

6-17 MINOR CHANGES TO THE SCOPE OF A LEAD RETAILER'S OBLIGATIONS

(1) Types of change that are permitted

An **Operator** may change the range of **Basic Products** that it is required to offer for **Sale** at a **Regulated Station**, the hours during which its **Ticket Office** at a **Regulated Station** is required to be open or the range of **Credit Cards** that it is required by Clause 7-1 below to accept at a **Regulated Station**:-

(a) in the case of a change in the range of **Basic Products** or the opening hours, the change is in response to a material shift in the timing of demand for the **Sale** of **Rail Products** and the total time during which the relevant **Ticket Office** is open each day is not materially reduced; or

(b) in the case of a change in the range of **Credit Cards**, it has been unable (despite its reasonable endeavours) to negotiate with an appropriate **Credit Card Company** an agreement relating to the acceptance of the relevant **Credit Card**, except on terms which are unreasonably onerous to that **Operator** (having regard to the terms available to it in relation to other **Credit Cards** and the terms available to the British Railways Board at the date of this Agreement); or

(c) in either case, the change does not have a material adverse effect on passengers or other **Operators' Sales** through the relevant **Ticket Office**, particularly in relation to the range of **Rail Products** that can be **Purchased** or, as the case may be, the range of **Credit Cards** that may be used to Purchase them.

The change must be made by following the procedure set out in sub-Clause (2) below.

(2) Procedure

(a) An **Operator** that wishes to make any of the changes referred to in sub-Clause (1) above must serve a written notice on each of the other **Operators**, the **Authority** and the **RSP** specifying the nature of the proposed change.

(b) Any **Operator** may object to the proposed change on the basis that it does not fulfil either of the relevant criteria specified in sub-Clause (1) above by serving a notice in writing on the **Operator** that wishes to make it, the **Authority** and the **RSP**. The **Authority** may also object to the proposed change on the same basis by serving a notice in writing on the **Operator** that wishes to make it and the **RSP**.

(c) If no such notice is served within 28 days after the service of the notice referred to in paragraph (a) above, the proposal will be deemed to have been approved and will be binding on the **Operators** and the **RSP** accordingly.

(d) If a notice of objection is received from an **Operator** within the period referred to in paragraph (b) above and has not been withdrawn by the end of that period, the **Operator** wishing to make the relevant change must, at the end of the period, either:-

- (i) withdraw the proposal (and send a written notice to the other **Operators**, the **Authority** and the **RSP** to that effect); or
- (ii) refer the matter to the **ATOC Schemes Committee**.

(e) If a referral is made to the **ATOC Schemes Committee**, it (or the expert or arbitrator appointed pursuant to the **ATOC Dispute Resolution Rules**) will determine, in accordance with the **ATOC Dispute Resolution Rules**, whether either of the relevant criteria referred to in sub-Clause (1) above are satisfied in respect of the proposed change.

(f) If the proposed change is approved (or is deemed to have been approved) or the **ATOC Schemes Committee** (or the expert or arbitrator appointed pursuant to the **ATOC Dispute Resolution Rules**) determines that either of the relevant criteria referred to in sub-Clause (1) above are satisfied, the **Operator** which proposed the change must notify the **RSP** of this. The **RSP** will then update Schedule 17 and notify the other **Operators** accordingly.

(g) If a notice of objection is received from the **Authority**, the change may not take place pursuant to this Clause 6-17. However, the **Operator** wishing to make it may make a new application pursuant to this Clause 6-17 or may seek to make the change pursuant to Clause 6-18 below.

(3) **Experimental Changes**

(a) Before an **Operator** makes an **Experimental Change** it must notify the **Authority** of its intention to do so and the date on which the **Experimental Change** is to take effect.

(b) On a date which is between 12 and 18 months after the date of the notice, that **Operator** must notify the **RSP** of the opening hours of the **Ticket Office** in respect of which the **Experimental Change** is to be made and the range of **Rail Products** which has been **Sold** during the previous six months at the **Station** in which that **Ticket Office** is situated. The **RSP** will then amend Schedule 17 accordingly.

6-18 MAJOR CHANGES TO THE SCOPE OF THE LEAD RETAILERS' OBLIGATIONS

(1) Types of change that are permitted

(a) An **Operator** may change the range of **Basic Products** that it is required to offer for **Sale** at a **Regulated Station** or the hours during which its **Ticket Office** at a **Regulated Station** is required to be open if:-

(i) the change would represent an improvement on current arrangements in terms of quality of service and/or cost effectiveness and members of the public would continue to enjoy widespread and easy access to the **Purchase** of **Rail Products**, notwithstanding the change;
or

(ii) the change is in response to a change in the requirements specified by a **Passenger Transport Executive**.

(b) The change may only be made by following the procedure set out in sub-Clause (2) below.

(c) This Clause 6-18 applies even if the proposed change does not comply with either of the criteria in Clause 6-17(1) above.

(2) Procedure

(a) An **Operator** that wishes to make any of the changes referred to in sub-Clause (1) above must serve a notice on each of the other **Operators**, the **RPC** in whose area the **Station** is situated (determined, in the case of the **RPC**, in accordance with the **Act**), any **Passenger Transport Executive** whose responsibilities relate to that area (or part of it), the **Authority**

and the **RSP** specifying the nature of the proposed change and containing the information referred to in sub-Clause (3) below.

(b) Information about the proposed change must also be advertised at the **Station** no later than the day on which the notice is served. The advertisement must invite members of the public who wish to comment on the proposed change to write to the relevant **RPC** not later than 21 days after the service of the notice.

(c) Any **Operator** or the **RPC** may object to the proposed change on the basis that it does not fulfil either of the criteria specified in sub-Clause (1) above by serving a notice in writing on the **Operator** that wishes to make it, the **Authority** and the **RSP**. However, if no such notice is served within 28 days of the service of the notice referred to in paragraph (a) above, the proposal will be deemed to have been approved and will be binding on the **Operators** and the **RSP** accordingly.

(d) If a notice of objection is received from the **RPC** within the period referred to in paragraph (d) above and has not been withdrawn by the end of that period, the **Operator** wishing to make the relevant change must, at the end of the period, either:-

- (i) withdraw the proposal (and send a written notice to the other **Operators**, the **RPC**, any relevant **Passenger Transport Executive**, the **Authority** and the **RSP** to that effect); or
- (ii) refer the matter to the **Authority**, who will deal with it in accordance with Clause 6-19 below.

(e) If a notice of objection is received from an **Operator** (but not from the **RPC**) within that period, the **Operator** wishing to make the relevant change must, at the end of the period, either:-

- (i) withdraw the proposal (and send a written notice to the other **Operators**, the **RPC**, any relevant **Passenger Transport Executive**, the **Authority** and the **RSP** to that effect); or
- (ii) refer the matter to the **ATOC Schemes Committee**.

(f) If such a referral is made to the **ATOC Schemes Committee**, it (or the expert or arbitrator appointed pursuant to the **ATOC Dispute Resolution Rules**) will determine, in accordance with the **ATOC Dispute Resolution Rules**, whether either of the criteria referred to in sub-Clause (1) above are satisfied in respect of the proposed change.

(g) If the **Authority** or the **ATOC Schemes Committee** (or the expert or arbitrator appointed pursuant to the **ATOC Dispute Resolution Rules**) determines that either of the criteria referred to in sub-Clause (1) above is satisfied, the **Operator** which proposed the change must notify the **RSP** of this. The **RSP** will then update Schedule 17 and notify the other **Operators** accordingly.

(3) Contents of the notice

(a) A notice which is served pursuant to sub-Clause (2)(a) above must state the reasons why the **Operator** wishing to make the relevant change believes the change would satisfy either of the criteria referred to in sub-Clause (1) above, taking into account:-

- (i) current levels of accessibility to facilities for the **Sale of Fares**;
- (ii) the need to safeguard the interests of passengers and other **Operators**;
- (iii) the promotion of the use of the **Network**;
- (iv) the existence (or the provision as part of the change proposal) of any alternative means, including new technology, of meeting the needs of passengers and other **Operators**;

- (v) the sufficiency of those alternative means and the extent to which passengers and other **Operators** can be offered assurances that they will continue to be available;
- (vi) the costs of providing existing facilities, the level of demand for those facilities, and the extent to which the proposals would meet the needs of dependent users and the costs of doing so;
- (vii) the adequacy of the proposed alternatives in relation to the needs of passengers who are disabled;
- (viii) the continued provision of clear standards of service which can easily be understood and monitored; and
- (ix) the need to provide passengers with reasonable certainty about the new arrangements and avoid frequent changes.

(b) The notice which is served on the **RPC** must also state:-

- (i) that the **RPC** may object to the proposed change by serving a notice in writing to this effect within 28 days on the **Operator** which proposes to make the relevant change;
- (ii) the addresses to which any such notice must be sent; and
- (iii) that if such a notice is served, the matter will be referred to the **Authority**, who will consider whether the relevant criteria are satisfied.

6-19 CONSIDERATION OF MAJOR CHANGES BY THE AUTHORITY

(1) Notification of the **Authority's** consideration of the application

If a proposal is referred to the **Authority** pursuant to Clause 6-18(2)(d) above, the **Authority** will notify the relevant **RPC** and any **Operators** (other than the one making the proposal) or **Passenger Transport Executives** which he believes may be affected by the proposed change and will consider any representations made by them or by the **Operator** making the proposal.

(2) Contents of representations to the **Authority**

Any representations made pursuant to sub-Clause (1) above must be made in such form and within such times, and must contain such information, as the **Authority** specifies from time to time, either generally or in any particular case.

(3) Representations by other **Operators**

(a) If the **Authority** seeks the views of any **Operators** or **Passenger Transport Executives** or a **RPC** pursuant to sub-Clause (1) above, he may give those **Operators** or **Passenger Transport Executives** or that **RPC** any information about the proposed change and the representations made by the **Operator** wishing to make it that the **Authority** considers appropriate.

(b) However, that **Operator** may ask the **Authority** to keep any representations it makes confidential. The **Authority** will comply with such a request, but may refuse to consider further the making of a change if he believes it will not be possible to seek the views of other **Operators** or **Passenger Transport Executives** or the **RPC** properly if that information is not disclosed to them.

(4) The **Authority's** decision

After considering any representations made by the **Operators**, the **Passenger Transport Executives** or the **RPC**, the **Authority** will decide whether the proposed change he has been asked to consider satisfies either of the criteria set out in Clause 6-18(1)(a) above. The **Authority's** decision will be binding on the **Operators** and the **RSP**.

(5) Notification of changes

(a) If the **Authority** decides that either of the criteria in Clause 6-18(1)(a) above are satisfied, he will notify the **Operators**, the **Passenger Transport Executives** and the **RPC** as soon as reasonably practicable.

(b) If this notification is made, the proposed change may take place at any time after the date specified for this purpose in the notification (or if no such date is specified, immediately). Any such date that is specified by the **Authority** will be a reasonable time after the date of the notification.

(6) Appointment of an arbitrator

The **Authority** may delegate the consideration of a proposed change to an arbitrator selected by him. However, if he does so, he will instruct the arbitrator to follow the procedure set out in this Clause 6-19. If the arbitrator fails to follow that procedure, Clause 3-5(2)(a) above will apply.