

**For Attention Of: The Managing Director**

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East Midlands Trains  
Midland House  
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DE1 2SA

1 August 2008

Dear Sir

NOTICE PURSUANT TO SECTION 55(6) OF THE RAILWAYS ACT 1993  
(THE "ACT") AS AMENDED BY THE TRANSPORT ACT 2000 AND THE  
RAILWAYS ACT 2005

The Secretary of State for Transport (the "**Secretary of State**") and East Midlands Trains (the "**Franchisee**") entered into a franchise agreement (the "**Franchise Agreement**") on 21 June 2007 pursuant to section 23(1) of the Act.

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

By letter dated 17 June 2008, the Franchisee was notified by the Secretary of State that it had contravened Schedule 7.1 Clause 2.3 of the Franchise Agreement the Franchisee shall, in accordance with the relevant requirements of Appendix 3 to Schedule 13, report to the Secretary of State the total number of Passenger Services in that Reporting Period operated with less than the passenger carrying capacity specified for each such Passenger Service in the Train Plan by misinterpreting the provisions in the Franchise Agreement for Capacity Benchmark reporting.

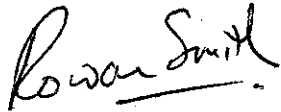
After detailed consideration, and in accordance with Section 55(5B)(b) of the Act, the Secretary of State is satisfied that in this particular instance the Contravention will not adversely affect the interest of users of the railway, or lead to any increase in public expenditure.

The above being the case the Secretary of State hereby gives the Franchisee notice as required under Section 55(6)(a) of the Act, that no provisional or final order shall be made in relation to the Contravention.

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

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

Yours faithfully

A handwritten signature in cursive script that reads "Rowan Smith". The signature is written in black ink and is positioned above the printed name.

**Rowan Smith**

For and on behalf of the Secretary of State