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DECISION OF THE TRAFFIC COMMISSIONER FOR THE NORTH WEST OF ENGLAND

Advanced Access Solutions GB Ltd OC2004397

In the matter of the
Goods Vehicles (Licensing of Operators) Act 1995 (The Act)

Public Inquiry at Golborne
on 24 April 2018.

Decision

On findings in accordance with s.26 (1) (c) (iii), (f) and (h) of the Act, I conclude that the operator has neither financial standing nor remains fit to hold this licence.

I revoke this operator's licence with effect from 28 May 2018 at 23.59 hours.

Background

1. Advanced Access Solutions GB Ltd (OC2004397) (hereafter Advanced Access) is the holder of a Restricted Goods Vehicle Operators licence. It was granted on 07 July 2017. There are 2 vehicles in possession. The sole director is Stephen Haslam.
2. The licence was granted subject to a financial undertaking. The operator had agreed to its provision by signing the undertaking on 28 June 2017. It read as follows:
 - The operator will provide the Traffic Commissioner 3 month's original bank statements and other financial details (such as overdraft facility agreements or credit card statements) that show the licence holder has access to the required financial facilities and funds. These details were to be provided by 31 October 2017, and cover the months of July, August and September 2017.

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3. When the undertaking fell due on 31 October 2017, no bank statements had been provided.
4. My office wrote to the operator at the correspondence address recorded for the operator on 1 November 2017 but there was no response
5. My office again wrote to the operator on 28 November 2017; there was still no response.
6. When information about these failures to meet the undertaking was placed before me on 23 January 2018, I directed that my office Propose To Revoke (PTR) the operator's licence. The letter detailed breach of the undertaking and material change, bringing in to question whether the financial resources held by the operator were sufficient to ensure that the vehicles operated under it were capable of being kept in a fit and serviceable condition. It was noted that an external contractor was responsible for preventative maintenance checks undertaken. The continuing fitness of the operator was also brought into question.
7. The operator did respond on 28 January 2018 and provided some financial materials. Stephen Haslam explained that having moved address, he had only responded because the PTR correspondence had also been served on all other known addresses including by email, as well as that which had been specifically marked for the receipt of correspondence from the Office of The Traffic Commissioner.
8. Bank statements provided were in respect of both the period covered by the undertaking – July to September 2017, but also for October to December 2017. Staff at my office completed analyses for both periods against the financial requirement, which is £4800.
9. The financial calculation for July to September 2017 showed an average of only £{REDACTED}.
10. The financial calculation for October to December 2017 showed an average of £{REDACTED}. Neither was sufficient, even for one vehicle.
11. A further PTR letter was sent. The operator exercised its right to request a Public Inquiry by letter dated 19 February 2018.

The Calling-In to Public Inquiry

12. The letter calling-in the operator to Public Inquiry was sent on 15 March 2018. It referred to an alleged change to the operating centre, the issue of a prohibition, breach of the financial undertaking and material change relevant to fitness and financial standing.

The Public Inquiry

13. Stephen Haslam, Director, was present for the Public Inquiry held at Golborne on 24 April 2018. The operator was unrepresented. His brother was present;

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Christopher Daniel Haslam is the owner of C S Haslam Scaffolding Solutions Ltd (hereafter C S Haslam). That company is not the holder of an operator's licence.

14. Evidence of finances were produced for the period 23 January 2018 to 23 April 2018. The calculation carried out, revealed average availability of £{REDACTED}; again insufficient to meet the £4800 required and the least sum available for any calculation completed.
15. Despite clear requests to do so in the calling-in letter, no safety inspection records, driver defect reports, the forward planner, any evidence of systems for ensuring compliance with drivers' hours and tachograph legislation or evidence of training or of disciplinary action carried out, were provided. Stephen Haslam apologised for overlooking the requirement.
16. Pressed by me, Stephen Haslam accepted that the vehicle unit for the digitally enabled vehicle, usually driven by his father, Brian Haslam, had not been downloaded since it had come into use. It also transpired that his father was not paid by Advanced Access but instead by C S Haslam, despite the fact that he was described as employed as a driver for the former.
17. I was informed that whilst Advanced Access carried out some scaffolding work of its own, its principal activity was a hirer of scaffolding equipment to others, using its vehicles to facilitate this. It was clear from the bank account that C S Haslam Scaffolding was its main client. C S Haslam was said to be a "labour only" business, carrying out the actual scaffolding brought to site by Advanced Access.
18. Stephen Haslam accepted the failure to meet financial undertaking at any point during the life of the licence, although he pointed to credits in to the bank account listed on the day of the hearing, which swelled the balance to £{REDACTED}. They were unable to be taken into account for the calculations made since the banking day having not then concluded that some would not necessarily represent the closing balance. The credits to the account were received from C S Haslam.
19. A letter had also been provided by the maintenance contractor extending a line of credit for £{REDACTED} on work carried out for 45 – 60 days to Advanced Access.
20. He contended that given a further 3 months, the operator would be able to meet financial standing. Pressed to explain why he had such confidence, he described a plan to "slow the business" in order to achieve better balances. There would be no further purchases of scaffolding equipment whilst this happened.
21. I asked about meeting the preventative maintenance requirements of the licence,
22. I assume if it was likely that these were being met in accordance with the undertaking on the licence that they be carried out eight weekly. The operator however claimed that the frequencies would be found to be up-to-date but in accordance with a 12 weekly cycle. I pointed out to him that it was the case that his application form (included in the brief served) was made and the licence granted on the basis of an 8 weekly frequency.

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23. Noting that only one vehicle was nominated on the operator's licence, I was told that a new vehicle, MX55 WYF, was added to the fleet 3 months before the hearing. It was accepted that it was not presently nominated on the operator's licence, as it ought to have been, after 28 days.

24. Stephen Haslam told me he was offered the prospect of attendance at a DVSA new operator seminar, following grant of the licence but was "too busy to attend".

Findings

25. I made the following findings on the evidence:

- i. At no stage during the period of over 9 months since the inception of the licence has financial standing been met. The requirement to have such standing, and the bespoke undertaking have therefore not been satisfied;
- ii. The operator was aware of the need for it to meet financial standing by 31 October 2017 but took no responsibility to make arrangements to do so in a timely manner;
- iii. Only on the day of the hearing was money paid in to the bank as might meet financial standing, albeit on a snapshot basis;
- iv. The strategy for the operator to be able to meet financial standing by slowing down business activity is counter-intuitive. Slowing down the process that would increase profits when they continue, in most businesses, to be fixed costs is a very unconvincing plan;
- v. I am not persuaded that offering the prospect of further time to satisfy standing can be justified. I know nothing of the ability of C S Haslam to fund a loan or whether cash flow would demand its return in a short period;
- vi. The operator has failed to notify any change of its correspondence address which has in effect caused delay in this matter coming to hearing (and conversely allowed the operator more time to meet financial standing, yet it has not achieved it);
- vii. The operator has not demonstrated that in other aspects of its operation that I might be assured of compliance. There has been a failure to show vehicles have been maintained as required in accordance with undertakings for 8 weekly inspections, to produce records for inspection, to manage drivers' hours compliance or to manage administration of the licence;
- viii. That there was a failure to attend the New Operator Seminar, which might in fact have avoided the operator being in this position. Stephen Haslam chose to attend to business needs rather than to take up an opportunity to improve his knowledge and understanding.

Consideration

26. Having considered the evidence I heard and read, I have concluded that I am satisfied that the allegations made under s.26 (1) (c) (iii), (f) and (h) are each made out. Financial standing is not satisfied and taking my findings above together, I am not able to conclude that this operator remains fit to hold the licence.

27. I find I am unable to accept the offer made at the end of the hearing by Christopher Haslam that he would loan to his brother monies as would satisfy financial standing. I find that this is a step which falls in to a category of "too little, too late". It is

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manifestly the case that the financial standing requirement for this licence is in terms very modest. There has however been a singular failure to ensure it is met, despite it being entirely clear from the outset of the licence that meeting it was a vital part of holding a licence. The message that granting such an application would give to other operators, who have arranged to ensure financial standing is maintained, would be a very confusing one.

28. Whilst I have factored in to my assessment of the evidence such positives as I can:

- The relative openness and transparency of Stephen Haslam's approach, which he described himself as "stupid" and lacking in "control" with him taking on too many roles;
- The payments made in to the bank account on the day of the hearing.

29. I find the negatives much outweigh these matters. They include all those matters already referred to but also:

- The 100% prohibition rate – a single encounter led to a tyre related prohibition;
- The further prohibition issued upon presentation of the prohibited vehicle for clearance, which referred to a problem with braking systems;
- I conclude that the director is very probably spread too thinly across business activities but I have heard little that is convincing about how that position might change;

30. I have asked myself the so-called Priority Freight question; is it likely that this operator will be compliant? I conclude that the evidence does not satisfy me that any answer other than "No" is possible. I have gone on to consider if I believe that the operator ought to be excluded from the industry. I conclude it should be. Fair competition and road safety demands that I reach such a conclusion. I find myself a long way from being satisfied that I can be confident about this operator.

31. In order to achieve an orderly close down of the business and for arrangements to be made to bring in scaffolding on site or to place the work with another provider; I direct that the revocation take effect in 4 weeks on 28 May 2018.



Simon Evans
Traffic Commissioner
for the North West of England
30 April 2018