

xxxx
By e-mail: xxxx

Direct Line: 020 7944 xxxx
Fax: 020 7944 xxxx
xxxx@dft.gsi.gov.uk
web site: www.dft.gov.uk

15 June 2006

Dear xxxx

REQUEST UNDER THE FREEDOM OF INFORMATION ACT 2000 (THE "ACT")

Thank you for e mail of 25 May 2006. You requested information under the Act, namely any references to open access operator risk in the non-confidential question and answer bulletins sent to ICEC bidders.

I am writing to advise you that the Department does hold information that is relevant to your request and has made the information available at Appendix A. The question and answer was supplied to all bidders as a Q&A bulletin.

I hope you will find this information of help and assistance.

If you are unhappy with the way the Department has handled your request or with the decisions made in relation to your request, you may complain by writing to me at the above address. Please see attached at Annex B details of the Department for Transport's complaints procedure and your right to complain to the Information Commissioner.

Yours Sincerely,

xxxx
Press Officer - DfT Rail Desk

Appendix A

QUESTION

Section 3.2.9 states "The existing service specifications and associated access rights of other franchised passenger operators (GN, Central, Midland Mainline, ONE, Virgin Cross Country, Virgin West Coast, TransPennine Express, Northern Rail and ScotRail) and open access passenger operators (Hull Trains) should be assumed to remain at current levels. Bidders should note the Rail Regulator's recent approval of a supplemental track access agreement granting Hull Trains additional rights including a fifth service in each direction each weekday".

Bidder is aware of future known changes that will affect ICEC income such as 2006/8 further 30 followed by 20 min journey time improvement on West Coast journeys north of Manchester by Virgin West Coast, Hull Trains operation running at 125mph rather than the current 100mph and TPE journey time improvements to be implemented from 2007 or 2008. In addition there are other potential future changes such as Hull Trains Ltd application for a 6th path and Northern franchise changes. Finally there is the potential for as yet unknown future changes.

Can it be confirmed that "current levels" means as at October 2004?

Can it be clarified whether or not future service changes which are provided for now (as at October 2004 – see above) as part of current franchise arrangements between the Authority and third parties will be treated as a change within the definition of "Change" when those future service changes are put into effect or otherwise taken into account through an adjustment in the ICEC franchise?

If the answer is that current franchise-related specifications in relation to future services are to be assumed

and will not be treated as a Change or otherwise adjusted for when they are given effect:

- can clarification be provided as to the point at which such specifications in relation to the future will qualify

as a Change? Is this where they are provided for after October 2004?

- can details be provided of any future service changes which are part of the new Northern franchise if these fall before that point so these can be taken into account?

It is assumed that open access service operators (such as Grand Central and Hull Trains) will remain an industry risk allocated to the franchisee for which no adjustment will be made (save where applicable under para 10.7 of Schedule 1.1 or paras 3 and 4 of Schedule 8.1).

SRA RESPONSE

Current levels means at October 2004; change mechanisms only take effect when they directly impact on the franchisee as set out by the Definition 'Change' in the Definitions Agreement. Open access operators remain an industry risk allocated to franchisees.

Annex B

Your right to complain to the Department and the Information Commissioner

You have the right to complain about the way in which your request for information was handled and/or about the decision not to disclose all or part of the information requested. In addition a complaint can be made that Department has not complied with its FOI publication scheme.

Your complaint will be acknowledged and you will be advised of a target date by which to expect a response. Initially your complaint will be re-considered by the official who dealt with your request for information. If, after careful consideration, that official decides that his/her decision was correct, your complaint will automatically be referred to a senior independent official who will conduct a further review. You will be advised of the outcome of your complaint and if a decision is taken to disclose information originally withheld this will be done as soon as possible.

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF