



HS1 Limited
73 Collier Street
London
N1 9BE

Telephone 020 7014 2700
Facsimile 020 7014 2701

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19 June 2009

Dear Sirs

Consultation on HS1 Network Statement and Related Arrangements

1. HS1 Limited ("HS1 Ltd") is the infrastructure manager of the high speed rail network and associated infrastructure between St Pancras International and the portal to the Channel Tunnel in the United Kingdom ("High Speed 1"). HS1 Ltd is a wholly owned subsidiary of London & Continental Railways Limited ("LCR") which was awarded the concession by HM Government to design, construct, operate and maintain High Speed 1.
2. Under the Railways (Access and Management) Regulations 2005 (as amended by the Railways (Access and Management (Amendment) Regulations 2009) (the "Railways Regulations") one of the duties on HS1 Ltd is to develop and publish a Network Statement for High Speed 1.
3. An initial Network Statement was published in late 2006 while part of High Speed 1 was still being constructed and an updated Network Statement was published in November 2008. Since the completion of the construction of High Speed 1 a number of significant regulatory, commercial and structural/organisational changes have occurred or will shortly come into force. As these changes directly impact on the allocation of and charging for capacity on High Speed 1, HS1 Ltd has determined that it should consult with industry regarding the proposed revisions to the Network Statement to reflect these changes.

Purpose

4. The purpose of the consultation is to:
 - (a) update industry parties on the regulatory, commercial and organisational changes relevant to HS1 Ltd and LCR which have recently occurred or will occur in the near future;
 - (b) conclude the First and Second Consultations on the Prospective Levels and Principles of Track Access Charging for High Speed 1 and the Third Prospective Consultation on the Proposed Operational Arrangements and Principles for the Allocation of Capacity for High Speed 1;
 - (c) enable industry parties to consider and comment on:
 - (i) the proposed revisions to the Network Statement for High Speed 1;
 - (ii) the proposed charges for access to High Speed 1;
 - (iii) the proposed performance regime for High Speed 1; and
 - (v) the role of the Office of Rail Regulation ("ORR") in relation to the regulatory arrangements affecting High Speed 1;
 - (d) enable industry parties to comment on the proposed terms and conditions for access to High Speed 1 as set out in the Passenger Access Terms and the Freight Access Terms;
 - (e) provide industry parties with the opportunity to consider and comment on proposed changes to the dispute resolution regime for operational related disputes; and
 - (f) seek comments from industry parties on the proposed allocation of capacity on High Speed 1 to Eurostar (U.K.) Limited ("EUKL") and to London & South Eastern Railway Limited ("LSER").

Background

5. High Speed 1 was constructed in two sections; Section 1 involved the construction of the railway infrastructure between the boundary to the Channel Tunnel and North Kent, and Section 2 involved the construction of the railway infrastructure between North Kent and St Pancras International station in London (including Stratford International station and Ebbsfleet International station).
6. CTRL (UK) Limited ("CTRL UK") was previously the infrastructure manager of Section 1 while HS1 Ltd was the infrastructure manager of Section 2. However, as High Speed 1 is intended to be maintained and operated as a single asset, Section 1 and Section 2 were consolidated in November 2008 and HS1 Ltd became the infrastructure manager and nominated undertaker of all of High Speed 1.
7. In May 2009 the European Commission provided HM Government with State Aid clearance for a financial restructuring of LCR. The restructuring will enable HS1 Ltd to operate and maintain High Speed 1 on a sustainable commercial basis without the need for any further state support.

8. Network Rail (CTRL) Limited ("NR CTRL") is currently contracted by HS1 Ltd to be the infrastructure operator for High Speed 1 and is responsible for operating and maintaining High Speed 1. NR CTRL is currently carrying out the functions of the Charging Body and the Allocation Body (as set out in the Railways Regulations) for High Speed 1. However, it is intended that HS1 Ltd will assume this function in the near future. NR CTRL has approved the terms of this consultation.
9. HS1 Ltd has also recently reached agreement in principle with NR CTRL, on a number of proposed revisions to the contract for operating and maintaining High Speed 1 (the "Operator Agreement"). The proposed amendments are intended to place the arrangements on a more commercial basis, provide incentives to achieve cost efficiencies and align the performance regime for NR CTRL with the proposed regime for train operators.
10. In advance of this consultation on the revised Network Statement, HS1 Ltd has undertaken a number of prospective consultations to ascertain the industry's views on the basis of access charges and the principles underpinning the allocation of capacity.
 - In October 2007 a first stage prospective consultation was issued jointly by CTRL UK and HS1 Ltd. The first prospective consultation dealt with the proposed levels of access charges for High Speed 1 and primarily the level of the investment recovery component of the track access charge and the basis on which it would be applied.
 - In September 2008 a second prospective consultation was issued jointly by CTRL UK and HS1 Ltd. The second prospective consultation set out revised proposals in relation to the investment recovery charge and the proposed charging basis for the recovery of operation, maintenance and renewal costs through track access charges for High Speed 1.
 - In October 2008 a third prospective consultation was issued jointly by CTRL UK and HS1 Ltd. The third prospective consultation set out the proposed operational arrangements and the principles for the allocation of capacity for High Speed 1.
11. Since the second consultation, there have been a number of increases in certain elements of HS1 Ltd's costs relating to the operation, maintenance and renewal of High Speed 1. HS1 Ltd has managed to offset these increases largely through efficiencies in its operations and maintenance regime. In particular, in negotiating the proposed amendments to the Operator Agreement, HS1 Ltd has reached agreement in principle in relation to obtaining efficiencies of £27 million over the first control period (being the period up to 31 March 2015). As a result, HS1 Ltd has been able to maintain the overall level of operation, maintenance and renewal costs at the level set out in the second consultation, being £77 million in the first year following introduction of the new arrangements.

12. Under the Railways Regulations the Secretary of State for Transport ("**Secretary of State**") is required to establish a charging framework for High Speed 1. The Secretary of State is currently consulting on a revised proposal for such a charging framework on which it originally consulted in September 2008. A copy of the Secretary of State's consultation document can be found on www.highspeed1.com

Structure of Consultation

13. For ease of reference this consultation has been structured into the following four parts:
 - (a) *Part A: High Speed 1 Commercial and Regulatory Arrangements* – this section describes the proposed commercial and regulatory arrangements for High Speed 1. In particular this section describes the key principles and main changes to the current Network Statement for High Speed 1 and the regulatory framework for High Speed 1 (including the proposed role of the ORR). It also explains the structure and level of access charges and the proposed performance regime for High Speed 1 and how these arrangements have developed since the end of the second prospective consultation.
 - (b) *Part B: High Speed 1 Operational Arrangements* - this section sets out the intended operational arrangements for High Speed 1 following the third prospective consultation including the proposed terms and conditions for access to High Speed 1 (as set out in the Passenger Access Terms and the Freight Access Terms). In particular this section describes the changes to the HS1 Network Code following consideration by HS1 Ltd of the responses to the third prospective consultation and discussions with the ORR and the Secretary of State regarding the regulation of High Speed 1 following the coming into force of the Railways (Access and Management) (Amendment) Regulations 2009.
 - (c) *Part C: Dispute Resolution* – this section describes the proposed changes to the existing dispute resolution procedure in order that it provides a timely and efficient mechanism for the resolution of access and operational related disputes.
 - (d) *Part D: Proposed EUKL and LSER Arrangements* – this section sets out key terms of the framework track access agreements which HS1 Ltd proposes to enter into with each of EUKL and LSER.
14. To enable industry parties to consider the proposed arrangements in more detail, HS1 Ltd has published the documents set out in Annex 1 to this letter. A copy of each of the documents described in the Annex is contained on the CD-ROM enclosed with this letter. The documents are also available to be downloaded free of charge from the HS1 Ltd website www.highspeed1.com.



15. The scope of this consultation is not intended to encompass the arrangements for stations on High Speed 1. However, copies of a template station access agreement, station access conditions and station annexes which set out the legal terms and conditions upon which a party may be granted access to a station are available for downloading free of charge from www.highspeed1.com.

Workshops and Meetings

16. HS1 Ltd is intending to hold a workshop regarding the proposed performance regime for High Speed 1 on 2 July 2009. A series of meetings is also planned to discuss the proposed changes to the dispute resolution arrangements and an initial meeting is proposed to be held on 3 July 2009. For further information please see paragraph 28 of Part A of this consultation (in relation to the performance regime workshop) and paragraph 24 of Part C of this consultation (in relation to the dispute resolution meetings).
17. If you would like to participate in either or both of these meetings please contact either Brian Blackwell or Naina Mistry of HS1 Ltd at the address below by no later than 17.00 hours (London time) on Monday 29 June 2009.

Consultation Timetable and Responses

18. Industry parties wishing to comment on any of the matters forming part of this consultation are requested to respond by no later than 17:00 hours (London time) on 17 July 2009 to Brian Blackwell, HS1 Business Planning Director or Naina Mistry, Regulatory Affairs Manager at the following address:

HS1 Limited
73 Collier Street
London
N1 9BE

or by email to brian.blackwell@highspeed1.co.uk or naina.mistry@highspeed1.co.uk

19. Comments received from industry parties will be considered by HS1 Ltd and NR CTRL (in its role as Charging Body and Allocation Body under the Railways Regulations) in finalising the Network Statement and the other arrangements being consulted upon. Consultation responses will also be shared with the ORR given the role it will assume on 1 October 2009 in relation to regulating High Speed 1 (see paragraph 5 in Part A of this consultation paper).

20. In accordance with the requirements of the Freedom of Information Act 2000 all information contained in a response to this consultation may be subject to publication or disclosure, including any personal information. If you wish your response or any personal information (including your name and address) to remain confidential you should explain when submitting your response why confidentiality is necessary. Your request will be granted only if it is consistent with the requirements of the Freedom of Information Act. An automatic confidentiality disclaimer generated by an email system will not be regarded as binding on HS1 Ltd.
21. HS1 Ltd considers that the proposed Network Statement is compliant with the Railways Regulations and demonstrates that High Speed 1 is an open access railway.
22. If you have any queries regarding this consultation please contact either Brian Blackwell or Naina Mistry.

Yours faithfully

A handwritten signature in black ink, appearing to be a stylized 'V' or similar mark.

Paul Chapman
Managing Director
HS1 Limited