



Our reference: LET-MMR OffRAR re TPP

12 September 2002

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Office of Rail Access Regulation
197 St Georges Tce
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Worsley's submission re Draft Determination on the Train Path Policy to apply to WestNet Rail

Dear Dr Michael

Thank you for the opportunity to comment on the Draft Determination on the Train Path Policy ("TPP") to apply to WestNet Rail. Worsley broadly endorses the Draft Determination but offers the following comments.

1. Terms & definitions

Worsley accepts the revised definitions of types of train paths.

2. Allocation and cancellation of train paths

Worsley endorses the Regulator's view that the allocation of train paths should be consistent inside and outside the Code. Worsley believes that WNR should only be empowered to resume a train path if it is sought by another access user or seeker. Where there is a change of contract or freight carrier then the train path must transfer also. That is, there is no need to cancel train paths if the network is not at capacity but possession of train paths cannot be used as a barrier to competition.

3. Temporary & permanent variations to train paths

Worsley endorses the Regulator's view that a permanent train path should not be varied without the consent of both parties if the operator is meeting its obligations and requirements under the Code and access agreement.

4. Approach to be taken in the event of a capacity constraint

Allocation of train paths should be unaffected up to the point where a requested additional train path will interfere with an existing train path. Worsley believes that in assessing the implications of such an access on the route it ought be possible for the Regulator to advise a floor and ceiling price for such access (on the basis of estimated costs). This will allow negotiation of access in the usual way while preserving WNR's rights to an economic return but preventing capacity constraints leading to monopoly rents.

5. On-selling of train paths

Worsley believes that on-selling of train paths is inconsistent with the intent of the Code.

6. Effectiveness of train paths and TPP

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Worsley agrees with the Regulator that a time period longer than three months (say, twelve months) is necessary for a review by WNR of a scheduled train path and that this review must distinguish between the operator's and WNR's responsibilities with respect to adherence to schedule. The objective of the review is to maximise the efficiency of operation of the network and any amendment to a schedule should maintain the capacity previously enjoyed by the operator unless the network is capacity constrained.

Yours sincerely
B Gaynor
Commercial Administrator

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