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Dear John

RTTI Code of Practice

Thank you for your letter of 3rd March.

We have considered the points made to you during the consultation process and communicated to us in the Annex to your letter.

Please find enclosed our response to each point raised and the final version of the Code of Practice.

Yours sincerely



CHRIS SCOGGINS
Chief Executive



ORR 3rd March Letter and Responses

You have asked for a commitment that all parties will be treated fairly.

The Code already states "NRE will consider applications for access to these systems on a non-discriminatory basis, and will provide access on fair and reasonable terms." However, as requested, we have added additional wording to reinforce this point.

You have requested that NRE`s reasons for refusal be given in detail and in writing and we give a time period for response.

The draft Code currently states "In the event that an application is refused NRE will provide the applicant with an explanation and full reasons for the refusal" and it says elsewhere that we will respond within 21 working days. We have added that the explanation will be in writing together with full details of the reasons for the refusal.

You propose that information required from applicants is clarified and is not compulsory.

The information requested is in respect of the applicant and in furtherance of the application. We have already stated that "NRE only require the information necessary to assess the request". However, we have detailed what will be required by adding references to include past accounts (for a trading company), or academic qualifications where the application is being made by an individual or non-trading entity.

You request that undue weight is not placed on NRE revenues when deciding adverse impact on TOCs.

NRE have a responsibility to the TOCs not to add to the cost of the service, so the impact of new applications on NRE revenue is a relevant consideration, although it will not be the only criteria.

You have requested timescales be shortened.

As discussed on previous occasions, NRE`s primary function is the provision of accurate rail information and, given its limited resources, it is not in a position to commit to definite timescales in relation to additional matters, beyond the statement contained in the existing draft, namely

that it will use all its reasonable endeavours to complete applications as quickly as possible.

You have requested preferential timescales be given to companies supplying 3rd parties as opposed to those supplying passengers directly.

NRE believes this request is inconsistent with the undertaking to consider applications on a non-discriminatory basis.

You have requested further detail on how the NRE Board is independent.

The NRE Board is, apart from the Chief Executive, entirely made up of non-exec directors who are not involved in the day to day running of NRE.

You would like the sections numbered.

Agreed and amended.

You would like NRE to publish a successful application.

Given each application is likely to be innovative if not unique, we do not believe publication of an example would assist applicants. There might also be confidentiality issues on the part of such an applicant, in relation to its personal or company details, or in relation to details of the application itself. Successful applications, by their nature, are likely to become recognised in the market.

You have proposed that NRE provide SLAs.

As previously discussed, NRE does not obtain service levels from any of its third party data providers and is, therefore, unable to provide the same to applicants.

You have asked why there should be a fresh application for each data use.

Each use of the data needs to be assessed on its own merits. Unfortunately, this does involve a new application, although some of the data relating to the applicant may not be required for new applications from existing licensees.

You have questioned NRE`s requirement for consistency of information.

As previously advised, it is fundamental to the provision of rail information to passengers that information provided via licensed applications is consistent with that provided by NRE. While we would be pleased if third parties were able to add additional information to that provided by NRE, it would not benefit passengers if there were inconsistencies in output. In addition, we believe that the direct or indirect approval of applications by NRE which produced such inconsistencies might also give rise to concern on the part of the TOCs and DfT including in relation to the formers' licence obligations.

You have asked why charges are incurred at stage 2.

We believe there may be some confusion arising from the current wording of the Code on this point. NRE is not intending to levy a charge for processing the application at stage 2, merely that a discussion is to be had during stage 2 as to the licence fee. We have now amended the wording to clarify this point. The only mention of a charge by NRE in the Code is where NRE is to provide technical assistance to applicants. We believe this is reasonable as NRE is not in a position to provide free technical assistance.

You propose that data interface and structure be published.

This information will be made available on request from genuine applicants. We do not believe it is appropriate to make interface and related information generally available to parties who are not applying for access.

You have asked why there is no provision on how NRE will monitor and enforce compliance.

As previously stated, data licensing is not the core business of NRE which has limited resource to monitor compliance to licence terms. In addition, monitoring compliance enforcement may depend on the nature and severity of the default. It is, therefore, difficult to prescribe in advance a definitive enforcement process.

You believe that the Code implies that push feeds are not currently available.

The wording in the Code states that push feeds will be available if there are safeguards in place to ensure data does not become corrupted or

amended. The need for consistency of information is dealt with in our comments above.

NATIONAL RAIL ENQUIRIES - REAL TIME SYSTEMS CODE OF PRACTICE

1. Introduction

National Rail Enquiries (NRE) has developed a number of systems to provide real time information to passengers travelling by rail in the UK.

NRE is keen to ensure that access to these systems is open to third parties who want to invest in the industry, inject new ideas and innovate with a view to expanding the range of applications available to passengers. This draft voluntary Code of Practice, agreed with the ORR – subject to public consultation, sets out the process for accessing those systems and the criteria on which access is granted.

The systems NRE provide include live departure and arrival information and real time journey planning as well as alerting services and disruption information.

2. Purpose

Publication of this Code is designed to bring more transparency to the licensing process and help developers understand the application process and enable them to work with NRE to improve and enhance the products and services available to passengers. NRE will consider applications from all parties for access to these systems on a fair and non-discriminatory basis, and will provide access on reasonable terms with a view to enabling new products and services to enter the market. In order to achieve this, certain criteria need to be met to enable access to be granted. These criteria are:

- Whether the proposed use is of additional benefit to passengers. Applications which in NRE's reasonable opinion are of demonstrable benefit to passengers will be granted unless outweighed by a material adverse impact on TOCs (whether financially, strategically, operationally or in regards to their reputation or the reputation of the industry as a whole).
- Whether the applicant is a reputable company. This criterion may include the applicant's previous track record of past developments, and will also include any previous dealings with NRE. Applicants who

use NRE data without permission or breach their licence terms may be disqualified for consideration for a licence.

In the event that an application is refused NRE will provide the applicant with a written explanation and full details of the reasons for the refusal.

3. Status of the Code

This code has been written by NRE on a voluntary basis, but in conjunction with the ORR, to provide clarity to potential licensees of Darwin data following on from the ORR's 17th November 2009 decision, available at: <http://www.rail-reg.gov.uk/upload/pdf/rtti-decision-011209.pdf>. The Code develops and consolidates the existing processes that NRE has used for assessing potential licensees.

4. How to use the Code

If you feel a licence decision has been unfair or has not been handled within this code you should contact in the first instance Chris Scoggins, Chief Executive, National Rail Enquiries, 3rd Floor, 40 Bernard Street, London WC1N 1BY. All concerns will be dealt with by the Chief Executive in a fair and impartial way within reasonable timescales. His decision with full reasons will be provided to you in writing.

If, following receipt of this decision, you still feel that your application has been treated unfairly or has not been handled within this code; you can apply, setting out why you believe your application was not handled in line with this code, for your complaint to be escalated to the Board of NRE.

5. Commitments and guidelines

The process of awarding a Darwin licence is in two stages. First there is the initial assessment of the proposed application and licensee, followed by a second stage where the details of the application and scope will be discussed and agreed. By way of guidance, the data is usually provided by way of Web Service XML feeds. NRE will provide details of the current interface specifications and messaging structures on request in order to assist in the development of an application.

NRE does not provide service levels in respect of its data provision, since it is obtained from sources external to NRE. However, NRE does commit to treating all licensees without discrimination regarding service levels.

a) Process for applying for a real time train information systems Licence.

Applications need to be made in writing either by E-Mail to NRELICENSING@ATOC.ORG or by letter to Data Licensing, National Rail Enquiries, 3rd Floor, 40 Bernard Street, London WC1N 1BY.

Any application needs to include the following:

- Details of the proposed use including the commercial model (charging mechanism, funding etc.), projected volumes, services to be offered, support arrangements, how the service will be presented to the customer, the platform it will be offered on and any other relevant details. NRE only require the information necessary to assess the request but it is important to note that the more detail supplied at this stage the quicker the application process will be.
- Details of the applicant; where the applicant is a limited company or trading entity, then the information we would expect to see would include its last year`s accounts, in addition or where the applicant is an individual or non trading entity, we would like to receive details of any previous successful development, relevant qualifications or experience and references.

This application will be reviewed against the approval criteria and NRE will respond within 21 working days. In some circumstances this response may be a request for further information, so it is in the applicant`s interests to ensure that as much information as possible is included in the original application.

If the applicant satisfies the first stage, NRE will then enter into the second stage, involving detailed discussions on the proposal covering scope, presentation of the data, charges, accreditation etc. It is not possible for NRE to commit to a definite timescale for this stage, as it is dependent on the complexity of the proposal, and the availability of NRE technical staff and the timely response of the applicant to requests for information. However, NRE will give an indication of time scales based on its experience and will liaise with the applicant with a view to agreeing the same. To date these timescales have been typically between 1 and 3 months. NRE will, in any event, use all its reasonable endeavours to ensure the process is completed as quickly as possible.

If the application is approved then the applicant will need to sign a licence for the NRE services prior to using the data.

Applicants will need to submit a separate application for each permitted use.

b) Charges

NRE adopt a case by case approach to charging for access to their systems. This approach is designed to encourage innovation and allow smaller developers to enter the market. It is also designed to encourage promotion of rail travel.

Charges will be set reflecting the usefulness of the application to the public, level of innovation, costs and returns arising to the applicant from the application, timescales for development, impact on NRE and impact on TOCs. The charges will also reflect the lifetime cost of the application to NRE.

NRE is willing to adopt a flexible approach to charging for the grant of a licence, to be agreed with the applicant during the second stage of the application. Such licence charges could include for example, a fixed annual fee, fee per transaction, a share of revenue and will be designed to fit with the charging model of the licensee and the costs incurred by NRE.

c) Technical assistance

Subject to availability, NRE may be able to assist applicants with their application, subject to NRE's entitlement to charge for such assistance at an agreed daily rate.

NRE are under no obligation to supply this assistance but will use its reasonable endeavours to provide what it can.

d) Form of service

NRE will generally supply "pull" services, i.e. where queries are made to the NRE systems and the response is sent back for the developer to present to customers. This allows for consistent calculation of results and maintains the security of the data.

"Push" services are available to applicants, i.e. where the data is sent to a developer for them to interpret and present to the customer. This

type of service will be allowed provided, in NRE's reasonable opinion, there are sufficient safeguards in place, first, to ensure security of the data, in particular that it does not become available to unlicensed third parties, secondly, to ensure the data is not subject to corruption or amendment and, finally, that output of the application is consistent with the information provided by NRE. If such concerns are met, NRE will not unreasonably refuse access.