



18 November 2009

Dear Sirs

HS1 Ltd Consultation on Proposed Revisions to the Station Access Conditions And Access Conditions Annexes

The HS1 Station Access Conditions (2007) (SACs) set out the obligations of the various parties to Station Access Agreements to ensure a fair and equitable approach to the management of the relationship. They incorporate the Access Condition Annexes which set out the station-specific provisions and the process for amending any of this documentation is set out in the Conditions Change Process.

Background

HS1 has been operating for two years during which the industry has experienced a number of changes. Whilst stations are not subject to the ORR governance the changes to the regulatory framework and other legislative amendments naturally prompt a review to ensure the Station Access Conditions ("SACs") are structured appropriately.

The Access & Management Regs, HS1 Charging Framework and ORR Regulatory Statement Open Access all affect the High Speed operations and ensuring a coordinated set of documentation across the evolving HS1 estate will serve to avoid compartmentalisation and disconnect and avoid unnecessary conflict.

In addition to regulatory changes other drivers of updates to the SACs include time-dated commitments such as performance monitoring, abatements and a management fee incentive regime. Better understanding of TOC requirements developed over the initial 24 months will provide a more sustainable and appropriate regime, including bonuses and rebates, to ensure specifications are TOC-led and suitably sourced to ensure consistent delivery.

Nature of consultation

This consultation is issued in accordance with Part 2 of the Station Access conditions (2007) and revises the HS1 Station Access Conditions and the Access Condition Annexes for the four HS1 stations.

It is intended to use the 30 day period from 25 November 2009 to share the reasons behind the changes, to elicit views and opinions of consultees and to reach approval in accordance with the timetable below.

Consultation timetable and process

18 November	Pre-launch briefing and issue of draft documents
25 November	Proposal launched to consultees at the first of a number of scheduled workshops to complete the review.
23 December	Drafting complete and in-principle agreement
6 January	Approval of all consultees confirmed.
31 January	Implementation

Summary of Proposed Changes

As indicated above the nature of the changes are seen to fall into three categories:

- Capturing the changing regulatory framework
- Updating the time-dated commitments
- Encompassing the growing HS1 estate and the developments since 2007

An overview of the main changes and their drivers is set out in Appendix 1 and accompanied by Delta-view versions of the following documents for easier identification of the necessary changes:

- HS1 Station Access Conditions (2007);
- Access Condition Annexes for St Pancras International station
- Access Condition Annexes for Ebbsfleet International station
- Access Condition Annexes for Stratford International station
- Access Condition Annexes for Ashford International station

In addition this review affords the opportunity to correct the small number of typos in the original documentation and these too can be tracked in the attached documents.

In accordance with Part 2 of the Station Access Conditions (SACs) we look forward to receiving your written comments on the updated provisions of the HS1 SACs and Annexes.

For and on behalf of HS1 Limited

A handwritten signature in black ink, appearing to be "Paul Chapman", written over a horizontal line.

Paul Chapman
Managing Director

Workshop Targets

Date	Milestones
18/11	<ul style="list-style-type: none">- Initial presentation to TOCs highlighting the background to updates and the reasons for change.- Outline of performance regime.- Establish TOC preferred negotiating strategy – single representative or town hall meeting.- Issue draft consultation documents for review.
25/11	<ul style="list-style-type: none">- Formal CCP Launch- Page turn with queries submitted by Operators.- Typos and low level changes accepted.- TOCs confirm acceptance of <u>principles</u> of a new performance regime.- Detailed proposal for performance regime circulated.
02/12	<ul style="list-style-type: none">- Page turn to highlight remaining drafting queries and progress agreement on the proposed changes.- TOC proposals on performance regime received and page turn to progress.- Review progress and consider additional meetings.
09/12	<ul style="list-style-type: none">- Page turn to progress agreement on changes.- Performance regime developed and understood.
16/12	<ul style="list-style-type: none">- Agreement on all issues including performance regime.- Outline agreement on performance regime reached.
23/12	<ul style="list-style-type: none">- TOC confirmation of agreement to changes
06/01	<ul style="list-style-type: none">- TOC approvals to new SACs confirmed.
31/01	<ul style="list-style-type: none">- Implementation of 2010 Station Access Conditions

Summary of Proposed Changes to the Station Access Conditions 2007 & Annexes

Part of the Station Access Conditions	Changes
1	<p>Condition 1.1(E) is to be amended to reflect all of the applicable legislation so that the relevant definitions from the relevant legislation are incorporated into the Station Access Conditions.</p> <p>Condition 1.1(F) is to be amended to broaden the construction of the Station Access Conditions.</p> <p>Condition 1.1(O) is to be amended to remove the reference to freight services and include a reference to testing services in the definition of "Permission to Use". It also adds Relevant Consents and Applicable Standards so that environmental, planning and heritage requirements are complied with by the train operators whilst using a Station.</p> <p>Certain definitions in Condition 1.2 are to be added or amended to conform the Station Access Conditions to the Passenger Access Terms and the HS1 Network Code. New definitions are to be added or revised to explain the changes made elsewhere in the Station Access Conditions. Certain definitions are to be inserted to better clarify the other conditions. Certain definitions are to be changed to reflect the new arrangements in place on HS1 with regard to access and environmental management. Conditions 1.5 to 1.7 (inclusive) are to be added for consistency with the Passenger Access Terms. Condition 1.8 is to be added to provide that separate station access arrangements will apply during the period of the London Olympic Games in 2012.</p>
2	<p>Part 2 is to be reorganised so that the provisions in relation to proposals of Conditions Change are followed by the provisions on Station Meetings and then the provisions on the approval of the Conditions Change Proposals. If a Conditions Change Proposal is made by the Station Facility Owner, it would invite written representations from the Affected Users at the time of making such proposal. Part 2 is to be amended to introduce a distinction between a User and (as a new term) Affected User. Whilst User includes all Passenger Operators and Non-Passenger Operators, Affected User includes only those Users who are likely to be affected adversely or beneficially in any</p>

	<p>manner by a Conditions Change Proposal.</p> <p>A modification of a Conditions Change Proposal may be made by either the Station Facility Owner or by the Users.</p> <p>Wording is also to be included to clarify the position where a proposed change relates only to a single Zone or only to one or more Zones at a single Station.</p> <p>The circumstances in which a Conditions Change Proposal is regarded as having been approved is to be amended by adding the definition of "Requisite Majority" into Part 2 and to expressly provide the Station Facility Owner with a right of veto to any Conditions Change Proposal sponsored by a User. A further discussion is required as to how voting will apply across multiple stations and/or multiple zones.</p> <p>Existing Condition 7 is to be deleted as it is considered not relevant. Existing Condition 8 is also to be deleted as the Secretary of State does not have any role with regard to the resolution of disputes in respect of HS1 stations.</p>
3	<p>Part 3 is to be amended to reflect the updated planning, heritage and environmental obligations upon HS1 Ltd, which are to be taken into account when a Proposal for Change is anticipated. Existing Condition 11 (Development Change Proposal) is to be incorporated into the revised Condition 8 with necessary changes, e.g. the requirement to hold a Station Meeting every six months for discussing the Development Change Proposal is to be deleted and the train operators are to be given a right to propose a Development Change Proposal. Revised Condition 12 sets out the implementation process following the approval of the Development Change Proposal in greater detail.</p> <p>If a train operator proposes a Development Change to a Station, such train operator is obliged to apply for the heritage and planning consents and bear the costs of the development.</p> <p>The procedure to be followed and the information to be provided in respect of any Initial Proposal or Development Change Proposal is also to be outlined in more detail for clarity in Conditions 8.10 to 8.12, with consequential amendments in the remainder of the Condition.</p>
4	<p>Condition 15.1 (existing Condition 16.1) is to be updated to clarify the position in relation to works and/or actions carried out in accordance with a Proposal for Change.</p> <p>Existing Annex 9 (Production of Specification) is to be incorporated as a new Condition 16 with modifications. The Station Facility Owner is to prepare specifications for the Repair & Renewal and Maintenance of any Elements of the Station or Equipment in accordance with its asset stewardship</p>

	obligations under the HS1 Concession Agreement. Such specifications are to be consulted upon and approved following the procedure for a Conditions Change Proposal.
5	Part 5 is to be amended to reflect requirements from insurers under existing insurance arrangements.
6	Part 6 is to be amended to represent the practical arrangements in respect of Existing Agreements (i.e. that no Station Register is maintained).
7	Part 7 is to be updated so that references to the Secretary of State are deleted.
8	Part 8 is to be deleted as there is no Station Register.
9	Part 9 is to be amended by deleting references to Barrow Crossings which are not present at any HS1 Station.
10	Part 10 is not to be amended.
11	<p>The performance monitoring regime in Part 11 is subject to further discussion.</p> <p>The provisions on indemnity, limitation of liability and force majeure are to be moved from Part 11 to Part 16 as it is intended that the revised Part 11 will contain only the provisions with regard to the performance regime for the Stations.</p>
12	Part 12 is to be amended to conform the environmental obligations under the Station Access Conditions to the environmental obligations under the HS1 Network Code and to reflect the obligations with regard to Carbon Reduction Commitment. Existing Condition 61.3 has been deleted.
13	<p>References to Domestic Southbound Zone and Domestic Southbound Passenger Operator in Part 13 are to be deleted.</p> <p>References to the Station Register are to be deleted.</p> <p>Amendments are to be made in Condition 60.1 (existing Condition 66.1) to clarify references to Competent Authority, Directions, safety management system and safety certificate.</p> <p>Condition 51.1(E)(2) has been amended so that the arrangements contemplated in this condition are to be applicable after 1st January 2010.</p> <p>Condition 61.1 (existing Condition 67.1) is to be updated to reflect the Applicable Standards and the Relevant Consents.</p>
14	<p>References to Adjacent Property are to be added as the negative obligations should apply to the Adjacent Property as well as the Stations.</p> <p>Existing Condition 68 is to be deleted as the planning obligations are recorded in other Conditions.</p> <p>Certain defined terms are to be updated for consistency with</p>

	<p>the HS1 Network Code.</p> <p>In Condition 53.1 (existing Condition 75), the approval of the Station Facility Owner and all Relevant Consents is to be required in advance of carrying out spray painting beneath Railway Substructure or Railway Superstructure or if the brickwork or foundations are cut into or otherwise injured. This is for safety, heritage and environmental reasons.</p> <p>Condition 62 (Existing Condition 77) is to be extended to include officers and contractors so as to be comprehensive.</p>
15	<p>Part 15 is to be updated to reflect changes elsewhere within the Station Access Conditions.</p> <p>Condition 68 (existing Condition 83) is to be amended to reflect the existing arrangements between the Station Facility Owner and the Users as at 1 December 2009, which are to take precedence. It is also to be amended so that if the Requisite Majority require the Station Facility Owner to appeal against any determination, such Requisite Majority will reimburse all costs and expenses (including legal expenses) incurred by the Station Facility Owner in undertaking such an appeal.</p> <p>Note: HS1 Ltd would like to discuss the scope of Condition 65 (existing Condition 80) going forward.</p>
16	<p>The provisions on indemnity, limitation of liability and force majeure are to be moved from Part 11 to Part 16 of the Station Access Conditions. Condition 69 (existing Condition 54) is to be amended to reflect the introduction of the defined term Relevant Losses. Condition 70.2 (existing Condition 55.2) is to be amended so that loss of profit and consequential loss cannot be recovered by either party as against the other. Financial caps on indemnity liabilities are to be introduced in Condition 70.3 except where a claim relates to liability for death or personal injury arising from the respondent's negligence or from fraud.</p> <p>Condition 71.5 is to be added to clarify the extent of Force Majeure relief available under the relevant Station Access Agreement and the Station Access Conditions.</p> <p>Part 16 is to be updated to ensure that the wording in the Station Access Conditions is consistent with the wording in the Passenger Access Terms in respect of these general provisions.</p> <p>The payment, default interest and VAT provisions are to be moved to Section A and Section B of Part 17 of the Station Access Conditions.</p> <p>Existing Condition 87 is to be deleted as it is not applicable.</p> <p>The restrictions on the right to create security are to be deleted.</p>

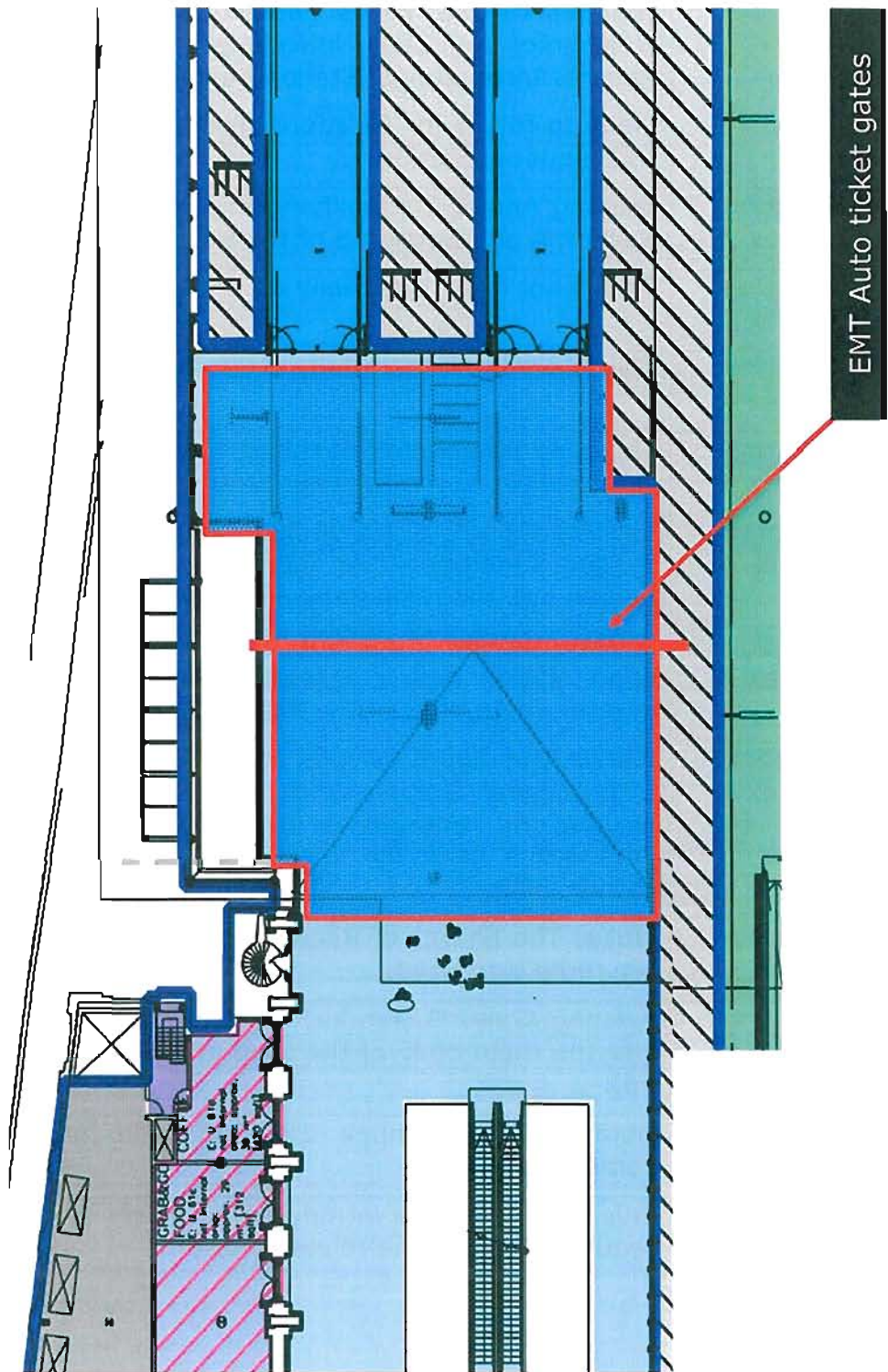
17	
Section A	<p>This Section is to be reorganised as follows: Section A1 (Interpretation), Section A2 (Qualifying Expenditure), Section A3 (Long Term Charge), Section A4 (Investment Recovery Charge) and Section A5 (Miscellaneous).</p> <p>Provisions from the Existing Annex 2 (Qualifying Expenditure) are to be incorporated into Part 17 as Condition 78, since they deal with the calculation of Qualifying Expenditure. The provision providing for credit into the Qualifying Expenditure of any money received from retail service charges has been deleted to recognise the separation of regulated and unregulated activities.</p> <p>Section A5 collates the Miscellaneous provisions together which are to be transposed from elsewhere in the Station Access Conditions or are to be included for consistency with the Passenger Access Terms. Existing Condition 92.6 is to be moved to Section A5 as Condition 93 providing the modified procedure for payment of Access Charges.</p> <p>Provisions relating to the modification of the Long Term Charge by the Secretary of State are to be deleted as the Secretary of State has no role in setting or modifying the Long Term Charge. The provisions relating to the Long Term Charge are to be amended to allow the Station Facility Owner the ability to review the level of the Long Term Charge on a five-yearly basis.</p> <p>Existing Condition 103 (Contributions from Third Parties) is to be deleted.</p> <p>Existing Condition 104 is to be deleted as HS1 Limited has entered into the Station Access Agreement with London and South Eastern Railway Limited to which Condition 104 referred to.</p> <p>Provisions with regard to the Investment Recovery Charge are to be added so that the train operators are liable to pay the Investment Recovery Charge for upgrades to any of the Stations. Condition 92 sets out the position in respect of the Investment Recovery Charge.</p> <p>The definitions section is to be amended to reflect the above changes. The definitions of "Common Zone LTC" and "Common Zone QX" are to be amended to account for the situation when there is no train operator operating trains from any particular Zone of the Station.</p>
Section B	<p>Section B of Part 17 is to be amended so that it applies equally to Stratford International Station, Ebbsfleet International Station and Ashford International Station and not solely to Ebbsfleet International Station as at present. Consequent changes are to be made to Section B of Part 17.</p>

	The other changes made in Section A of Part 17 are also to be made to Section B of Part 17.
Existing Annex 1	<p>Annex 1 is to be revised with updated information on the Domestic Southbound Zone. The cleaning specification in Annex 1 is also to be updated in line with TOCs specifications for the forthcoming new contracts.</p> <p>St Pancras International Station's northbound domestic zone and southbound domestic zone have been increased by 763.1 and 795.7sqm respectively to reflect practical and physical changes to use. EMT's gateline on the northbound domestic concourse has been introduced. The common zone of St Pancras International Station has been reduced by 1558.8sqm.</p> <p>Plans to follow for Stratford International Station and Ashford International Station.</p>
Existing Annex 2	Existing Annex 2 (Qualifying Expenditure) is to be moved into Section A and Section B of the Station Access Conditions.
Existing Annex 3	This is not to be materially amended.
Existing Annex 4	This is not to be materially amended.
Existing Annex 5	This is to be updated to reflect the current lease arrangements with respect to the relevant Station.
Existing Annex 6	Existing Annex 6 (Identified Abatable Charges for Common Station Amenities and Common Station Services) is to be moved into the main body of the Station Access Conditions.
Existing Annex 7	Existing Annex 7 (Sliding Scale of Abatement for failure to open Station during agreed Opening Times) is to be moved into the main body of the Station Access Conditions.
Existing Annex 8	<p>Note: The figure of the Long Term Charge for St Pancras International Station is to be revised to take into account repairs and renewals of the supporting structure above the Thameslink Box for which HS1 Ltd has been given the responsibility.</p> <p>Note: The figures of Requisite Majority in respect of a Station are to be discussed.</p>
Existing Annex 9	Existing Annex 9 (Production of Specifications) is to be moved into the main body of the Station Access Conditions (Condition 16).
Existing Annex 10	Note: Existing Annex 10 (proposed Annex 6) is to be completed.
Proposed Annex 7	This Annex is to be introduced to reflect planning and heritage requirements for the relevant Station.

St Pancras Domestic Zone Adjustment

Northbound Domestic Zone Adjustment

Net effect N/B Domestic zone increases by 763.1sqm. Common zone decreases by 763.1sqm



St Pancras Domestic Zone Adjustment

Southbound Domestic Zone Adjustment

Net effect S/B Domestic zone increases by 795.7 sqm. Common zone decrease by 795.7sqm

