

Department for **Transport**

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66 Buckingham Gate
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Société Générale (as Security Trustee and
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(together with any other funders from time to time of
Infraco JNP Limited and Tube Lines (Holdings)
Limited (to the extent of advances on lent to Infraco
JNP Limited), collectively the "Providers of Finance")

30 DECEMBER 2002

Dear Sirs

London Underground Limited Infraco JNP Public-Private Partnership

The Secretary of State is aware that Tube Lines Group is the nominated preferred bidder for the above PPP and has entered into or is shortly to enter into documentation relating to the same, including acquiring ownership of Infraco JNP Limited (with the exception of one "special share") which will enter into an amended and restated Service Contract with London Underground Limited ("LUL").

The PPP forms an integral part of the Government's long-term plans for transport which were set out in the Department for Transport's (then DETR) document "Transport 2010 – The 10 Year Plan" published on 20 July 2000. Transport for London ("TfL"), a functional body created under the Greater London Authority Act 1999 ("GLA Act"), or a wholly owned subsidiary of TfL, will, after transfer of LUL in accordance with Part XII of the GLA Act, own 100% of the share capital of LUL. TfL will guarantee the obligations of LUL under the Service Contract. Until such transfer of LUL, London Regional Transport ("LRT") will guarantee the obligations of LUL under the Service Contract. Under section 298 of the GLA Act, one of the transitional purposes of LRT is to facilitate the securing and carrying into effect of the PPP.

The Service Contract will contain provisions that seek to protect the Tube Lines Group and its Providers of Finance from adverse consequences arising as a result of a judicial review application or state aid challenge being made in respect of the PPP.

I am writing to confirm the Secretary of State's intentions in relation to transfer of LUL and of LRT's guarantee of LUL's obligations under the Service Contract from LRT to TfL (or any subsidiary of TfL). The Secretary of State cannot and must not fetter his discretion. This letter is therefore not intended to do that and does not create binding obligations.

The Secretary of State notes that officers of TfL have been given authority to institute proceedings challenging the decision of the European Commission in relation to state aid. It is also possible that they may make a further challenge to the PPP by way of judicial review proceedings. The Secretary of State does not consider that the transfer of LUL to TfL, or the transfer of any related obligations of LRT to TfL, could, or should, take place against the background of such threats nor while any such legal proceedings were in progress. As a result the Secretary of State does not propose to make any transfer scheme under section 409 of the Greater London Authority Act 1999 for the transfer of LUL, or its obligations, or any of LRT's obligations, to TfL until such time as all such legal challenges have been finally determined. or in his opinion the time periods for commencing such actions have expired.

The Secretary of State is also aware that sections 165, 412 and Schedule 12 of the GLA Act, may operate in such a way as to restrict the operation of certain provisions of the Service Contract or the LRT Guarantee in relation to the provision of additional security for the performance of LUL's obligations, or the obligations of its guarantor, which provisions are required by the Providers of Finance in order to proceed to financial close of this transaction.

The Secretary of State intends to bring forward legislation to amend the GLA Act ("the relevant legislation") in the current session of Parliament to address this problem so as to permit the operation of such provisions. In the absence of other measures which would address the Providers of Finance's concerns the Secretary of State does not consider that the transfer of LUL to TfL should take place while this uncertainty exists. As a result he has no intention to make any transfer of LUL, or its obligations or any obligations of LRT, under section 409 of the Greater London Authority Act 1999 until the relevant legislation has been enacted, is in force, and any necessary steps have been taken such that the provisions of the Service Contract can be relied upon unless the issues are otherwise resolved to address the Providers of Finance's concerns.

Nor does he propose to make the necessary Order for the dissolution of London Regional Transport until he is satisfied that the scheme transferring LUL and London Regional Transport's guarantee of LUL's obligations to Transport for London has been properly put in place such that the relevant obligations of LRT have been effectively transferred.

Yours faithfully,
David Rowlands.

DAVID ROWLANDS