

Government Legal Department
Commercial Law Group
1 Kemble Street
London
WC2B 4TS

Direct Dial: 020 7650 1200
Email: adews@leighday.co.uk
rcurling@leighday.co.uk
Your Ref:
Our Ref: RWS/ADS/00173458/1
Date: 21 May 2019

BY EMAIL ONLY:
Stephen.cromie@governmentlegal.gov.uk

Dear Sir / Madam

East Coast Franchise

We write further to our previous correspondence on this matter.

We first communicated our client's position in relation to the Secretary of State's decision to allow the current operators of the East Coast franchise to exit the franchise agreement over a year ago, in March 2018.

In that March 2018 letter we asked for urgent clarification about whether Stagecoach had met any and all contractual obligations or fulfilled other guarantees capable of covering the cost of the franchise's failure. We also asked for an explanation of the assertion that there was no basis to exclude Virgin or Stagecoach from the East Coast franchise/other franchises in the future and/or otherwise take into account its overbidding/deleterious performance on the franchise resulting in that failure.

In order to better understand the basis for the decision, our client specifically sought, under your client's duty of candour, to understand:

- Whether National Express was excluded from bidding for future franchises in 2009;
- The legal basis for the assertion that the Secretary of State is prohibited from excluding Stagecoach/other members of the consortium from bidding irrespective of the franchise failure; and
- The basis for the Secretary of State's position that no account can be taken of the franchise failure in considering whether Stagecoach/the other

Leigh Day postbox@leighday.co.uk - www.leighday.co.uk

Priory House, 25 St John's Lane, London EC1M 4LB
M40 5BP

T 0207 650 1200 - F 0207 253 4433

DX 53326 Clerkenwell

Central Park, Northampton Road, Manchester

T 0161 393 3600 - F 0207 253 4433

members of the consortium are eligible for and the validity of any future franchise bids.

Further, to date, despite concerted and protracted efforts by our clients, they are also no closer to understanding whether the Secretary of State has now finished his "passport review" process, and what (if it has been completed) the implications for the former operators of the East Coast franchise are/will be.

Evidently, our clients have noted the recent bans in respect of both Virgin and Stagecoach in relation to the West Coast and East Midlands lines. In your anticipated reply, please confirm whether these decisions involved or where the product of a new passport review.

Absent any confirmation from you by 4pm on Friday 7 June 2019 as to the review process and an explanation of the decision making to date, our client will be left with no choice but to draw an inference that there has been no decision to ban Stagecoach and Virgin Trains based on, or as a result of, past performance.

We look forward to hearing from you.

Yours faithfully


Leigh Day

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