



CONFIDENTIAL – POLICY AND MARKET SENSITIVE

OFFICE OF THE SECRETARY OF STATE

FROM THE PRIVATE SECRETARY



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6 October 2001

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#### **RAILTRACK: MEETING WITH JOHN ROBINSON**

- 1 You were present on 5 October when the Secretary of State met with John Robinson, Chairman of Railtrack.
2. The Secretary of State said he wished to inform Mr Robinson of certain decisions he had taken that afternoon in relation to Railtrack.
3. The Secretary of State noted that Mr Robinson had put a package of proposals - "Rainbow" - to him in late July, relating to the finance and regulation of the company. The Government had since been considering these proposals. However, in view of the Secretary of State's concerns about the open-ended nature of the financial commitments being sought by Railtrack, the Government had also been considering the possible consequences should funding be refused, including the possibility that it might be necessary for the company to enter Railway Administration under the terms of the 1993 Act.
4. The Secretary of State that he had now decided he could not agree to the "Rainbow" proposals, which would entail unlimited calls on the public finances. The Government had said in its April agreement with Railtrack that it stood behind the railway, not individual companies. The Secretary of State had decided that Government could not offer additional financial support to Railtrack.

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5. The Secretary of State said that it appeared the company was insolvent. If so, the Government's preferred approach now would be to reach agreement with Railtrack that the company should enter railway administration. Furthermore, it was the Government's view that a government proposal for a private company limited by guarantee should be put to the administrator and it was expected that this would be the best proposal for a vehicle to emerge from administration. The government would therefore work to bring forward this proposal. Such a company limited by guarantee would, in the Secretary of State's view, be able to concentrate on running the railway network without focusing on the interests of shareholders.
6. If agreement could not be reached with Railtrack on a move into railway administration, the Secretary of State said, if necessary, he would state publicly on Monday that there would be no additional Government financial support for Railtrack.
7. The Secretary of State said that on a personal level, he valued his working relationship with John Robinson and regretted the need to inform him of these difficult decisions. Both the Prime Minister and he had confidence in Mr Robinson and hoped he would be prepared to stay on during administration and to indicate that he would be prepared to chair the new CLG. You said the prospective administrator had indicated he would prefer Steve Marshall also to remain.
8. You said it was the Government's intention that the company debt should be kept whole. Treatment of shareholders would be a matter for the administrator and Government would not offer a view on this point. It was the responsibility of the Administrator to determine what value there might be in the company. You also said that there was a full financing agreement ready to be put in place with the Administrators and a debt market management exercise ready to go.
9. Mr Robinson asked how the new CLG proposed would raise money. You said the CLG would have access to funding streams such as track access charges. It would also be able to borrow on the debt markets.
10. You said that the initial membership of the proposed CLG would be determined by the SRA. Other members would be drawn in gradually, including interests from across the industry such as franchise holders. The plc Board was likely to need to be reconstituted at that point. You confirmed that pension rights of Railtrack employees would not be affected by a transfer into administration.
11. You said the Secretary of State expected to petition the judge on Sunday night. In order to do so he would seek a resolution from the Railtrack plc Board accepting that the company was insolvent.

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12. John Robinson said he had been taking advice on a weekly basis as to whether, consistent with his statutory duties, he could be confident the company was trading legally. He was confident this was so as long as the company was engaged in a dialogue with the Government about Rainbow. It would therefore be vital for him to see what Government intended to say about this. The Secretary of State agreed he would show Mr Robinson in advance what he proposed to say.
13. The Secretary of State further noted that Railtrack might consider the option of an appeal to the Regulator. The Secretary of State said he had authority to introduce a short bill to enable him to direct the Regulator as to the exercise of his functions, which could be used to close off the option of any interim review. He would pursue this course of action if necessary.
14. Mr Robinson said he had a fiduciary duty towards his shareholders. He had to do the best he could for them and make public statements consistent with those duties. The Secretary of State accepted this; officials would be ready to discuss the way forward with the Railtrack Board over the weekend.
15. You noted that if Railtrack plc were to enter administration, Railtrack Group would continue to trade.
16. The Secretary of State said that the proposed new CLG model would have regulatory implications, particularly for the roles of the SRA and ORR. He had spoken to the Regulator about this. John Robinson agreed that the regulatory regime needed to be streamlined.