

Department for
Transport

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Jim Morgan
First Capital Connect
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9th September 2009

Dear Jim

NOTICE PURSUANT TO SECTION 55(6) OF THE RAILWAYS ACT 1993 (THE "ACT") AS AMENDED BY THE TRANSPORT ACT 2000 AND THE RAILWAYS ACT 2005

The Secretary of State for Transport (the "**Secretary of State**") and First Capital Connect (FCC) (the "**Franchisee**") entered into a franchise agreement (the "**Franchise Agreement**") on 12th December 2005 pursuant to section 23(1) of the Act.

Words and expressions defined in the Franchise Agreement have the same meaning when used herein unless the context otherwise implies.

By email dated 12th June 2009, the Franchisee was notified by the Secretary of State that it had contravened Schedule 13, paragraph 2.4(b) of the terms of the Franchise Agreement (the "**Relevant Clause/Paragraph**") by failing to supply to the Secretary of State a revised Updated Business Plan within the agreed timescales (the "**Contravention**").

It is noted that the Franchisee has taken the following steps in order to secure compliance with the Relevant Paragraph by:

1. Providing a suitably detailed Updated Business Plan on 6th May 2009 and answering supplementary questions;
2. Managing internal processes to meet their obligation to report formally (not via casual emails) in good time should any delay to be expected in future.
3. Agreeing to provide future plans sufficiently early to allow Franchise Teams to read and digest the information prior to any formal meetings.

The Secretary of State, in accordance with Section 55(5B)(a) of the Act is satisfied, having regard to the above-mentioned step(s), that the Franchisee is for the time being, taking appropriate steps for the purposes of securing compliance with the Relevant Paragraph

The above being the case the Secretary of State hereby gives the Franchisee notice as required under Section 55(6)(a) of the Act, that no provisional or final order shall be made in relation to the Contravention.

This Notice is without prejudice to any action the Secretary of State may take in relation to any future contravention of the Franchise Agreement, including the Contravention identified herein.

A copy of this letter shall be placed on the Secretary of State's public register.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Colette Carroll', written in a cursive style.

Colette Carroll

For and on behalf of the Secretary of State