

## Annex A

### MINISTERIAL ENGAGEMENT BRIEFING: Michael Matheson

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<i>Engagement Title</i>	Call with Abellio UK - <b>[Redacted]</b> (Abellio UK) & <b>[Redacted]</b> (Abellio ScotRail).
<i>Organisation/Venue and full address including postcode</i>	n/a
<i>Date and Time of Engagement</i>	Date(s): 11 November 2020 Time(s): 1530 – 1615 hours
<i>Background/Purpose</i>	Purpose/Invitation History:  Conference call requested by Abellio ScotRail, seeking to “discuss ScotRail’s future plans, including what comes next as part of any future EMA”. As you will be aware, the current short 4-period EMA is scheduled to expire on 9th January 2021.
<i>Relevance to Core Script</i>	To ensure both organisations have a shared view of the future; important in helping the Scottish railway to continue to deliver core services during the pandemic; put in place processes to deliver “right size” efficiencies due to the ongoing financial impact of the current situation; and consider measures to recover and as fluidly as possible to meet SG expectations in the medium (post pandemic) term.
<i>Greeting Party and specific meeting point on arrival (if event is at a non SE Building)</i>	n/a
<i>Specific entrance for Ministerial Car/parking arrangements</i>	n/a
<i>Venue contact Number</i>	Dial in: <b>[Redacted]</b> Participant Code: <b>Redacted]</b>
<i>Special Dress Requirements</i>	n/a
<i>Bullet point Summary</i>	<b>Annex: A</b>
<i>Background Information –</i>	<b>Annex: B</b>

**Annex: C – Bios**  
**Annex D – Letter of Comfort issued**  
**September**  
**Annex E – EMA 3 KPI's**  
**Annex F – Summary of DfT measures**

*Directions including map(s)*  
*Official and Comms Support*  
*(including mobile numbers)*

**Names:**  
**[Redacted]**

## ANNEX A

### Bullet Point Summary

#### **Main Issue to be aware of in advance of meeting:**

Following the signing of EMA2 on 20<sup>th</sup> September, and consistent with our agreed position expressed via the Letter of Comfort (Annex C [Redacted]) have been working in good faith with Abellio ScotRail in negotiating an EMA that would run until 28<sup>th</sup> February 2022.

#### **[Redacted] Section 30(b)(ii)**

Abellio ScotRail will be aware of the ongoing uncertainty on provision of UK Government funding to the Scottish Government. Therefore, we would advise the following stance is taken on this matter at the meeting:

- *As per our previous meeting I instructed my officials to commence discussions immediately to seek a longer term plan for our contractual arrangements after January 2021.*
- *I am pleased to hear that good progress has been made in developing more finely tuned KPI's designed to balance the primary objective of achieving sustainable efficiencies (given the ongoing lack of revenue), whilst continuing to deliver strong performance and passenger satisfaction levels.*
- *Discussions with the UK Government continue on the level of UK consequential funding due to flow, but a finalised and agreed position has not yet been reached.*
- *As you can imagine, getting that certainty is at the top of our priorities across a number of SG functions, and we expect to be able to confirm the position one way or another before the end of November.*

#### **Other key messages for the call:**

#### **Opening position**

Express thanks to the ScotRail team for effective team working with Network Rail and TS in proactively responding to continued challenges of the covid pandemic, including variations to service levels.

Congratulate Abellio ScotRail on their recent success at the Scottish Transport Awards – the newly built Robroyston station achieving the Partnership of the year award. A great example of how collaborative working with Network Rail can deliver positively, and puts in place an excellent test case in achieving better value for money through TOC delivery [Redacted] **Section 30(b)(ii)**

Note the continuing positive position in relation to performance metrics, although tempered by the significantly reduced numbers of passengers using services, in line with SG guidance.

## **Emergency Measures Agreement (EMA2 currently in place)**

Request an update from Abellio's perspective on how the EMA2 currently in place is performing, since introduced in September.

**[Redacted]** view is that the EMA2, effectively replicates the original EMA, with a greater financial incentive to deliver on performance metrics, whereby the fixed management fee value in the previous arrangement has been removed, and only achievable if ASR achieve high performance scores.

If necessary, reiterate the point that SG's original intention for EMA2 was to put in place a longer term arrangement (to February 2022), but due to uncertainty as to consequential funding flows from UK government, that was not possible.

**[Redacted]** I would be keen to hear your views on how the most recently agreed EMA is settling in from an operational perspective across the ASR business.

## **Emergency Measures Agreement (Development for post 10th January 2021 EMA)**

**[Redacted]** have been engaging with ASR colleagues to incentivise performance and increased efficiency further in the EMA3 period by focusing on 5 objectively measured KPI's including a refocused SQUIRE regime, expanded from the current 3 subjectively measured KPI's in the current EMA, Annex D contains details of the KPI's.

In addition both teams have been identifying cost saving initiatives that can be implemented over the longer term EMA3 duration to help to mitigate some of the additional costs. Realising these are linked to the approval for the longer term EMA3 and an AO paper submission will shortly be presented to Ministers on this.

These initiatives will be targeted at preparing the ScotRail organisation and services to be ready for the future post 2022.

**[Redacted]** Pleased to hear that positive progress has been made by both parties in developing the contract design for a longer term EMA (after January 2021) across a more developed suite of metrics. Key to success will be working closely on identifying, developing and agreeing sustainable efficiencies, given significant budgetary pressures. I'd be keen to hear your views on how Abellio's work across the UK may be relevant here.

## **Outstanding Financial Commitments due from ASR**

**[Redacted]** **Section 30(b)(ii)**

## **Abellio UK Financial Stability**

**[Redacted]** **Section 30(b)(ii)**

Annex E provides a stepped through explanation of the DfT process for further background.

[Redacted] **Section 30(b)(ii)**

[Redacted] **Section 30(b)(ii)**

[Redacted] **Section 30(b)(ii)**

**Position beyond 2022 ScotRail Franchise expiry point**

[Redacted] **Section 30(b)(ii)**

[Redacted] **Section 30(b)(ii)**

Our plans beyond the current ScotRail franchise expiry date continue to be subject to detailed analysis at this stage, and there is not much more I can share with you on this matter since our last discussion.

However, as stated before, I recognise the benefits to passengers delivering ongoing stability of strong performance and clear communications during these uncertain times. I also recognise that Abellio, as an experienced TOC across the UK & Europe are well placed to oversee the pressing need to more sustainably operate rail services, both from a financial and environmental perspective.

I expect to be able to update you on contractual options being considered in the early part of 2021.

**BIOGRAPHIES**

[Redacted]

**ANNEX**

**LETTER OF COMFORT – 15th September 2020**

*Addressed to [Redacted] - Abellio Scotrail Ltd/Abellio UK*  
Culzean Building  
36 Renfield Street  
Glasgow  
G2 1LU

**[Redacted] Section 33(1)(b)**

Yours faithfully,

**[Redacted]**

**Section 33(1)(b)**

SUMMARY OF DfT ERMA / DIRECT AWARD PROCESS

[Redacted] **Section 30(b)(ii)**

## Rail Directorate

Buchanan House, 58 Port Dundas Road, G4 0HF  
Direct Line: [Redacted]



### Internal Meeting Note (A30822449) Cabinet Secretary telephone call with Abellio UK Senior Management Wednesday 11<sup>th</sup> November 2020 (09:45-10:30)

<b>Attendees:</b>	Abellio: [Redacted] Abellio UK employee) TS: [Redacted]
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Relevant Briefing – eRDM Reference A30776907

Item	Notes
Introductions	[Redacted] praised [Redacted] efforts on their oversight of transitional service plans ensuring appropriate service levels in line with SG guidance on efforts to mitigate spread of Covid-19. Also noted the award received for the recently opened Robroyston station for strong partnership working with [Redacted].
EMA2 & EMA3	<p>[Redacted] asked [Redacted] for an update on how from his perspective EMA2 was working in practice.</p> <p>[Redacted] noted appreciation of ScotRail in continued SG support; the strong partnership working across the Rail Recovery Task Force; and focus on clear communications for passengers.</p> <p>[Redacted] stated good progress is being made with TS officials on negotiations to agree EMA3 to take effect at the expiry of EMA2 (10<sup>th</sup> January 2021), with weekly calls in place to oversee progress made, notably on a more developed KPI regime.</p> <p>[Redacted] highlighted the challenge for SG in relation to entering into EMA3, continues to be the uncertain financial position with UK Government, and ongoing unconfirmed position on the value of consequentials. This in turn leads to an internal challenge in agreeing to a contract (taking EMA to 2022) with SG Exchequer. However, it was noted by all that a longer EMA is necessary to put in place the foundations to deliver more sustainable efficiencies to seek to address the significant reductions in revenues.</p> <p>[Redacted] agreed the longer term (to 2022) EMA enables more effective and planned building blocks to be put in place, and also with a view to facilitating any SG plans in the future to better reform and build the future of Scotland's Railway in a different post-pandemic economy.</p>
Abellio UK Financial Stability	[Redacted] requested an update from [Redacted] on the latest position with Abellio and UK Gov / DfT, and the possible pressures that might create for Abellio as a group.

<p><b>Pre-EMA cost liabilities</b></p>	<p><b>[Redacted]</b> stated that Abellio UK are in the fortunate position where their ultimate shareholder is the Dutch Finance Ministry, and they continue to have “very strong” backing.</p> <p><b>[Redacted]</b> used the position in Scotland as evidence of a consistent and steady approach from Abellio where it is expected a <b>[Redacted] Section 33(1)(b)</b> will have been incurred by the time the contract expires in 2022.</p> <p>In relation to discussions with DfT, <b>[Redacted]</b> stated they continue to have the full backing and support of <b>[Redacted]</b>. He referred to an <b>[Redacted]</b> that took place yesterday, where this position was clearly stated.</p> <p><b>[Redacted]</b> noted that the DfT position may see TOC’s required to sacrifice not yet drawn-down Parent Company Support in moving towards negotiating longer term Direct Awards, and that this principle is to be agreed by December. Does <b>[Redacted]</b> see Abellio coming to an agreement with DfT on these?</p> <p><b>[Redacted]</b> stated the matter was complex as some of the contracts being discussed still have 6/7 years to run, not helped by the lack of face to face interaction, but that the DfT had extended the deadline to 29<sup>th</sup> January 2021. <b>[Redacted]</b> also advised that DfT have agreed to share their financial models which has calculated their view of the “Fr Ag Termination Payment” which Abellio are keen to interrogate to assist an “apples for apples type discussion.” <b>[Redacted]</b> is hopeful they will reach a sensible conclusion with DfT in January.</p> <p><b>[Redacted]</b> recapped the above, and sought be reassured that there is no risk that <b>[Redacted]</b> would take the view of a short notice exit from the UK market. <b>[Redacted]</b> stated that would not be the case with NS strategic aim to be a long term player in rail at a national &amp; international level. Therefore his instruction is to continue negotiations and seek to conclude in a sensible fashion. <b>[Redacted]</b> then referred to other businesses not touched by the DfT position, such as Bus and indeed the ScotRail contract.</p> <p><b>[Redacted]</b> referred to the position with DfT in the long term, where the aim is to move onto a series of directly awarded contracts. <b>[Redacted]</b> stated that for Abellio they have been outlined as 3+2 DA’s in two of the cases, and 4+2 in the third case. Two starting in September 2021, and one in April 2022 (West Mids).</p> <p>Finally, <b>[Redacted]</b> referred to productive discussions held recently with Abellio ScotRail to conclude the utilisation of historic payment liabilities (such as SQUIRE and SIF) against agreed investments. Both <b>[Redacted]</b> and <b>[Redacted]</b> agreed this matter was in hand with <b>[Redacted]</b>.</p>
<p><b>Staff Pay</b></p>	<p><b>[Redacted]</b> sought the views of <b>[Redacted]</b> &amp; <b>[Redacted]</b> on the potential of seeking sustainable efficiencies in agreement with the unions, which could provide financial scope to reach a settlement, given budgetary pressures.</p> <p><b>[Redacted]</b> stated that there are a number of areas that can be looked at with union representatives, but that will require unions to more proactively consider strategic issues aimed to more sustainably deliver rail in a changing passenger and funding environment.</p>
<p><b>Abellio views on future rail matters</b></p>	<p><b>[Redacted]</b> expressed view that Scotland should look in the medium and long term for rail to be managed on a whole system basis, citing ScotRail’s delivery</p>

	<p>of a new station of Robroyston station as evidence of how sustainable efficiencies can be achieved.</p> <p><b>[Redacted]</b> then briefly promoted Abellio's position in the rail sector as being able to provide the required knowledge and expertise to help bridge the gap to deliver a sustainable railway moving towards whole system principles.</p> <p><b>[Redacted]</b> noted, but could not give a specific steer at this stage on what the future immediately beyond 2022 would look like. However, the recent challenges and issues arising from skewed funding arrangements have re-affirmed <b>[Redacted]</b> view that an integrated, one body approach is the right one. However, <b>[Redacted]</b> is still at a point where it is unclear whether that can be achieved alongside UK Government, given lack on certainty of their plans on concluding the Williams Review, and implementing the recommendations from that.</p>
<b>Concluding Remarks</b>	<p>It was agreed that a call would be arranged with <b>[Redacted]</b> in the next few weeks to review progress on post-January 2021 EMA development, and an update on Abellio / <b>[Redacted]</b> activities.</p> <p>It was also agreed that <b>[Redacted]</b> would arrange for the <b>[Redacted]</b> meetings with Abellio UK senior management to be scheduled in the diary on a quarterly basis.</p>

**From:** **[Redacted]** > **On Behalf Of** Cabinet Secretary for Transport, Infrastructure and Connectivity  
**Sent:** 11 November 2020 12:14  
**To:** **[Redacted]** **[Redacted]**  
**Cc:** **[Redacted]**  
**Subject:** Calls to be arranged with Abellio  
**Importance:** High

Hi **[Redacted]**

As discussed on this morning's call, I advised I would email you directly with the actions that **[Redacted]** agreed.

**[Redacted]** is content for a call to be arranged with **[Redacted]** within the next 3 weeks.

**[Redacted]** also welcomed your suggestion for a quarterly catch up with both yourself and **[Redacted]**

**[Redacted]** from my team with liaise with **[Redacted]** to firm up possible dates for **[Redacted]** call and the quarterly catch ups.

Please let me know if I be of any further assistance.

Many thanks

**[Redacted]**  
**[Redacted]**

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## Annex B

### MINISTERIAL ENGAGEMENT BRIEFING: Michael Matheson

Copied to: Covering email copy list

<i>Engagement Title</i>	Call with Nederslandse Spoorwegen (NS) <b>[Redacted]</b> (NS), <b>[Redacted]</b> (Abellio UK) & <b>[Redacted]</b> (Abellio ScotRail).
<i>Organisation/Venue and full address including postcode</i>	n/a
<i>Date and Time of Engagement</i>	Date(s): 19 August 2020 Time(s): 1515 – 1600 hours
<i>Background/Purpose</i>	<p>Purpose/Invitation History: <b>MACCS – 2020/0002644</b></p> <p>Follow up to your call with <b>[Redacted]</b>, held on 24<sup>th</sup> June.</p> <p>Original purpose of call is to review progress in the development of contractual transition arrangements once the existing EMA expires on 20<sup>th</sup> September. <b>[Redacted] Section 30(b)(ii)</b></p> <p>The call should also reflect on the tragic incident at Stonehaven last Wednesday, and again offer our condolences to <b>[Redacted]</b> colleagues who sadly lost their lives.</p>
<i>Relevance to Core Script</i>	Ensures both organisations have a shared view of the future will be important in helping the Scottish railway to recover and progress as fluidly as possible.
<i>Greeting Party and specific meeting point on arrival (if event is at a non SE Building)</i>	n/a
<i>Specific entrance for Ministerial Car/parking arrangements</i>	n/a
<i>Venue contact Number</i>	Dial in: <b>[Redacted]</b> Participant Code: <b>[Redacted]</b>
<i>Special Dress Requirements</i>	n/a
<i>Bullet point Summary</i>	<b>Annex: A</b>

*Background Information –  
EMA2 Development, NS  
Financial position, Long term  
investment plans*

*Correspondence [Redacted]*

Biographies

*Directions including map(s)  
Official and Comms Support  
(including mobile numbers)*

**Annex: B**

**Annex: C**

**Annex: D**

**Names:  
[Redacted]**

## ANNEX A

### Bullet Point Summary

Key messages for the call:

### Stonehaven Tragedy

[Redacted] **Section 30(b)(ii)**

### Emergency Measures Agreement (beyond 20<sup>th</sup> September)

[Redacted] **Section 30(b)(ii)**

### **Position beyond 2022 ScotRail Franchise expiry point**

- In terms of our plans beyond the current ScotRail franchise expiry date of March 2022, this is subject to detailed analysis by our team at the moment.
- I expect to be able to update you on contractual options being considered during 2020.

## Background Information

### Emergency Measures Agreement (EMA)

#### Outline of key differences planned for EMA2 (21 September – 10 January 2021)

[Redacted] **Section 30(b)(ii)**

#### Latest Financial Position of NS

- NS released their half year figures for 2020, on Friday 14<sup>th</sup> August.
- Reporting a net loss of €185m. €52m reported as operating loss, with €107m attributable to a written off deferred tax asset for activities in the Netherlands.  
[Redacted] **Section 30(b)(ii)**
- The report points to ongoing uncertainty on forecast passenger revenue and future government support in Holland, Germany and the UK.
- [Redacted] also state they do not expect passenger numbers to recover to pre-2019 levels until after 2024, while fixed costs continue. – “The Dutch transport sector needs to adapt, but is not going to make it without further support.”  
[Redacted] **Section 30(b)(ii)**

#### Traincrew Resilience

[Redacted] has advised Transport Scotland that a continuous programme of driver recruitment is required to allow the benefits of a sufficient number of qualified train drivers to be available for the successor operator and customers of Scotland’s Railway.

- [Redacted] has forecast that due to its ageing workforce approximately 600 drivers will leave the business over the next five years.
- The proposal requests funding for the cost of 300 trainee drivers thus protecting operations over the next 2 - 5 years.
- If recruitment and training is not proactively tackled it will result in an unsustainable vacancy gap for the next operator of [Redacted] .
- A major benefit of establishing a continuous recruitment and training pipeline now will eliminate vacancy gaps and reduce reliance on rest day working (“RDW”) by the end of 2022.
- This solid foundation of traincrew will enable the successor operator to focus on efficiently improving services for customers.
- The recommencing recruitment of drivers is on the current working assumption that they will continue to be funded through the ongoing EMA budget arrangements.
- As is generally provided for under the EMA, variations to the Franchise are currently suspended and therefore no variation is being put in place at this time in respect of such activity.

- In the event that the EMA and any successor equivalent arrangements were to cease prior to the expiry of the Franchise, TS confirms that it would be willing to recommence discussions to put in place a suitable variation to provide funding for the ongoing costs associated with driver recruitment and training for the remaining duration of the Franchise.

**Long term Investment [Redacted]**

**[Redacted]**

**Section 30(b)(ii)**

**Correspondence from [Redacted] (02/07/20)**

Dear Cabinet Secretary,

Thank you for meeting **[Redacted]** last week. It was good to hear your positive views on the performance of the Abellio ScotRail team through the Covid-19 crisis period.

Following our discussion, I know that our respective teams will continue to work on building a framework agreement to follow the expiry of the Emergency Measures Agreement in September. We are keen that we not only continue to deliver vital key worker focussed rail services, but also support you in building a sustainable future for Scotland's Railway.

I was also pleased to hear that you remain committed to our shared understanding of what needs to be done by addressing long term initiatives, such as recruitment and rolling stock agreements, that stretch beyond our current contract to March 2022.

As we discussed, we must recognise the very different future patterns of demand we will see in rail services and this must be balanced against the affordability challenge for Scotland's taxpayers. We will be happy to work with your officials on opportunities to restore revenues and manage the cost of the railway that can be reflected in an agreement from September. A transition measures agreement of 18 months, would align to our previous agreement for a joint business plan to March 2022, and provide the most stable platform for Scotland's Railway to see through the crisis and put in place vital longer term initiatives.

To maximise our opportunity we will need to move with some pace to put these plans in place, therefore I suggest that we meet again in late July to review progress and finalise an agreement for the next phase of our relationship. **[Redacted]** office will be in touch shortly to find a suitable date.

Finally, as both our countries continue the fight against Covid-19 and begin to rebuild our economies, please do let me know if I can share more details of our post Covid plans for restructuring **[Redacted]** with you, or I can arrange for the **[Redacted]** team to brief your officials.

Yours sincerely,

**[Redacted]**

**Correspondence from Scottish Government (20/07/20)**

Cabinet Secretary for Transport, Infrastructure and  
Connectivity  
Michael Matheson MSP



Scottish Government  
Riaghaltas na h-Alba  
gov.scot

T: **[Redacted]** E: scottish.ministers@gov.scot

**[Redacted]**

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Our ref: 2020/0002644  
20 July 2020

Dear **[Redacted]**

Thank you for your letter dated 2 July 2020 following our meeting on the 24 June 2020 to discuss the respective positions of the Scottish Government and **[Redacted]**

As discussed on our call, it is important that as we go into economic recovery we continue to work together to ensure that our transport network in Scotland supports that effectively. Our railway plays a vital role in supporting this recovery both through capital investment programmes alongside provision of passenger and freight services.

The temporary changes to the Franchise Agreement have provided the necessary financial security to the business, protecting jobs, which has enabled **[Redacted]** to focus on running safe and reliable services. **[Redacted]** continue to look at all the options available post September 2020 to determine an appropriate transition through this crisis.

We also discussed the important principle that funding provided through the Emergency Measures Agreement should not be used to pay for historic debts, for example to **[Redacted]** I was pleased that **[Redacted]** was able to confirm this would not be the case. I have asked my officials to confirm when they are satisfied the necessary arrangements have been assured.

As you suggested it would be beneficial to organise a follow-up meeting in early August to discuss the status of future options and I have asked officials to organise a suitable time for us both.

In the meantime, I want to thank you and your staff for your continued support in contributing to Scotland's ongoing recovery from the impacts of COVID-19.

**MICHAEL MATHESON**

**BIOGRAPHIES**

**[Redacted]**