

Costs ruling riles Great Western franchise bidders



Patrick McLoughlin, the Transport Secretary, ruled out reimbursing the four losing bidders that tendered for the Great Western Franchise

David Jones/FA

Robert Lea Industrial Editor
Published at 12:01AM, February 1 2013

Transport officials could be heading for the courts again as the latest abortive rail refranchising threatens to turn into a legal fiasco.

The Transport Secretary ordered the competition for a new London Paddington to Bristol and Cardiff franchise to be scrapped yesterday after deciding that the process, which has already been running for more than a year, had become too complicated.

Patrick McLoughlin also ruled that the four train companies who spent tens of millions of pounds bidding for the new Great Western franchise will not get their costs back. Cancelling the tender, Mr McLoughlin told MPs: "Bidders are responsible for their own costs and I do not believe it would be appropriate to reimburse the bidders."

That appears to be a volte-face on the decision to hand back £40 million to bidders in the scrapped London Euston to Glasgow West Coast intercity franchise last autumn. Industry sources believe that the decision is contractually and legally precarious.

National Express, which spent £10 million bidding for the new Great Western licence, is looking to challenge Mr McLoughlin's plan. "We're extremely disappointed," said a spokesman. "It is an unfair and inconsistent decision. The Great Western bid has been scrapped because of the mistakes revealed through the flawed West Coast process, yet bidders aren't being compensated in the same way. We are taking legal advice."

Bob Holland, managing director of Arriva, another Great Western bidder, said: "We are concerned about the decision not to compensate bidders for costs." Stagecoach, a third bidder, said it was reviewing its options.

It is understood the bidders' lawyers are scrutinising the "invitation to tender" document. One source told The Times that the tender document does not specifically cover the competition being cancelled by the department: "The Minister appears to have taken the decision on whether it is morally appropriate rather than legally correct."

The fourth bidder on the Great Western shortlist was FirstGroup, the incumbent operator, which resigned from the franchise because it was going to be liable for £800 million of premium payments back to the Treasury between 2013 and 2016. Lampered for running a service dubbed Worst Late Western, FirstGroup is now negotiating with the Department for Transport to continue running the service on a two-year temporary contract.

The scrapping of the Great Western competition follows the collapse of the West Coast refranchising because of faults within the Department for Transport's tendering process. That came after the incumbent, Virgin Trains, came within hours of seeing the department in court in a judicial review of the process. The winner of the West Coast competition was FirstGroup. After it

was scrapped, Virgin was given a temporary two-year contract extension.

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