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10 December 2020

Paul Harris  
Contracts Manager  
Network Rail Infrastructure Ltd  
Baskerville House  
Centenary Square  
Broad Street  
Birmingham  
B1 2ND

James Carter  
Network Access Manager  
West Midlands Trains Ltd  
134 Edmund Street  
Birmingham  
B3 2ES

Dear Paul and James

**Approval of the Seventh supplemental agreement to the track access contract between Network Rail Infrastructure Limited (Network Rail) and West Midlands Trains Limited (WMT) (jointly “the parties”) dated 15 May 2019**

We have today approved the above supplemental agreement submitted to us formally on 10 December 2020 under section 22 of the Railways Act 1993 (the Act). This follows an earlier informal submission of a draft agreement for our consideration. This letter explains the reasons for our decision.

**Purpose**

The purpose of this agreement is to extend the expiry date of the majority of the access rights approved in the parties' Fifth Supplemental Agreement on 20 May 2020, which are due to expire on the Principal Change Date 2020. This agreement extends the rights detailed below until the Subsidiary Change Date 2021 (SCD 2021).

The Northampton - Birmingham services introduced in SCD 2020, and supported by Network Rail for one timetable only, will no longer run and are not included in this application.

The proposed access rights extensions relate to the services below.

- Five Northampton – Euston SX paths
- Birmingham New Street – Birmingham International SX shuttle services
- SO 00:06 Euston – Northampton service
- SX 20:14 Birmingham – Coventry service that runs through to Euston
- SX 19:49 and 20:39 Euston – Coventry services
- SX 22:39 Coventry - Birmingham New Street service

Some of these services did not run during the May 2020 timetable due to the reductions in timetables resulting from the coronavirus pandemic.

### **Industry consultation**

Network Rail undertook the usual industry consultation, from 21 September until 21 October 2020. Cross Country responded with a couple of queries and these were resolved by correspondence.

### **ORR review**

We noted in our decision letter regarding the Fifth Supplemental Agreement that we were prepared to approve those rights for one timetable period and expected the parties to continue to monitor and evaluate the performance impact during that time and take any necessary mitigating measures before applying to extend them further.

Due to the current reduced timetables and the fact that some of these services did not run, this was not necessary. However, the same considerations will apply to a future application to extend these access rights further. Our usual presumption in favour of the extension of access rights does not therefore apply to these services.

During our review of the application we asked for clarification regarding some matters but other than that it did not raise any concerns.

### **Our duties under section 4 of the Act and our decision**

We have concluded that approval of this supplemental agreement strikes the appropriate balance in discharging our statutory duties under section 4 of the Act; in particular, those relating to protecting the interests of users of railway services (section 4(1)(a)), promoting the use of the railway network for the carriage of passengers (section 4(1)(b)) and



enabling persons providing railway services to plan their businesses with a reasonable degree of assurance (section 4(1)(g)).

### **Conformed copy of the track access agreement**

Under clause 18.2.4 of the track access contract, Network Rail is required to produce a conformed copy, within 28 days of any amendment being made, and send copies to ORR and the Train Operator. Please send the conformed copy to me at ORR.

### **Public register and administration**

Electronic copies of this letter, the approval notice and the agreement will be sent to Department for Transport and Network Rail's Regulatory Reform Team. Copies of the approval notice and the agreement will be placed on ORR's public register and copies of this letter and the agreement will be placed on the ORR website.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Jonathan Rodgers', written over a faint horizontal line.

**Jonathan Rodgers**