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30 June 2022

Stewart Smith
Access Advisor
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Legal and Regulatory Affairs
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Legal Counsel
Colas Rail Limited
Legal
Floor 3
25 Victoria Street
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Dear Stewart and Reyhan

Proposed connection contract between DB Cargo (UK) Limited and Colas Rail Limited at Westbury Down Yard Maintenance Shed

1. On 30 June 2022 the Office of Rail and Road (ORR) approved the terms of the connection contract submitted on 13 June 2022 by DB Cargo and Colas Rail (the parties) under section 18 of the Railways Act 1993 (the Act), relating to the connection at Westbury Down Yard Maintenance Shed. Please find enclosed a copy of our direction notice, directing the parties to enter into the contract. This letter sets out the reasons for our decision.

Background

2. DB Cargo has sub-let the majority of its wagon maintenance facility within Westbury Down Yard to Colas Rail as a base for locomotive maintenance. Colas Rail will enter into a separate Facility Access Contract to enable its locomotives to cross DB Cargo's infrastructure. This connection contract governs the connection of the two facilities. The connection contract has been submitted for ORR specific approval under section 18 of the Railways Act 1993 as it does not involve Network Rail and cannot rely on the General Approval. However we note it is based on ORR's Model Connection Contract format.

Consultation

3. DB Cargo conducted a 28-day industry consultation, and no issues were raised.

ORR Review

4. The connection contract is based on the Model Connection Contract. The parties may make appropriate deviations from this Model, which was designed for Network Rail use. For example, the parties have agreed to use RPI in their adjustment factor formula, as well as for calculating the liability cap, instead of the CPI measure used for Network Rail. Other sections have been removed or amended as they are not applicable to a non-Network Rail connection. We are satisfied that these do not cause concerns needing further ORR scrutiny.

ORR Decision

5. This application is under section 18 of the Act and therefore is agreed between the parties, who are prepared to enter into the agreement. In making this decision, we are satisfied that this decision reflects our duties under section 4 of the Act.
6. Under clause 18.2.3 of the connection contract, DB Cargo is required to produce a conformed copy, within 28 days of any amendment being made, and send copies to ORR and Colas Rail. We look forward to receiving the conformed copy.
7. In entering any provision on the register, we are required to have regard to the need to exclude, as far as is practicable, the matters specified in section 71(2)(a) and (b) of the Act. These sections refer to:
 - a. any matter which relates to the affairs of an individual, where publication of that matter would or might, in the opinion of ORR, seriously and prejudicially affect the interests of that individual; and
 - b. any matter which relates to the affairs of a particular body of persons, whether corporate or incorporate, where publication of that matter would or might, in the opinion of ORR, seriously and prejudicially affect the interests of that body.
8. When submitting the copy of the signed agreement would you therefore please identify any matters which you would like us to consider redacting before publication. You will need to give reasons for each request explaining why you consider that publication would seriously and prejudicially affect your interests.

Yours sincerely

A handwritten signature in black ink, appearing to read 'R Holt', with a long horizontal line extending to the right.

Ryan Holt