

Margret Haswell
Executive, Access and Licensing



1 February 2023

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Quentin Hedderly
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Dear Megan and Quentin,

Amendment of a track access contract between Network Rail Infrastructure Limited and DB Cargo (UK) Limited: Sixty First Supplemental Agreement.

1. On 1 February 2023 the Office of Rail and Road (ORR) approved the Sixty First Supplemental Agreement (SA) to the track access contract (TAC) between Network Rail Infrastructure Limited (Network Rail) and DB Cargo (UK) Limited (DBC) under section 22 of the Railways Act 1993 (the Act), submitted to us on 30 January 2023. This letter sets out the reasons for our decision.

Background

2. This SA amends 32 access rights, all of which operate on the East Coast Mainline (ECML) for all or part of their journey. The SA amends one 24-hour and 30 one-hour access rights by converting them from time-bound contingent rights to firm rights. The SA also amends one one-hour firm right and relinquishes 3 firm rights.
3. Network Rail has begun the process of turning applicable contingent rights, previously time limited by its ECML access policy, to firm rights on a case-by-case basis. The paths that DBC has applied for have been incorporated into the new ECML timetable developed by the ECML Events Steering Group, giving Network Rail confidence to agree these 31 firm rights.

Consultation

4. The draft SA went out to consultation between 21 November 2022 to 21 December 2022. Northern Trains and West Yorkshire Combined Authority raised queries that were satisfactorily resolved.

ORR Review

5. We received an informal submission from the parties on 3 January 2023. Network Rail supported DBC's request to convert these rights, and both agreed to timing adjustments for four of the amendments.

6. One-hour windows have been agreed for 30 of the new firm rights. These rights are already operating as one-hour contingent rights and therefore work operationally. Other, customer specific, operational reasons such as inflexible loading slots for customers and pathing challenges in the Peak District area were detailed in the application to support the one-hour window requirement.
7. Our review did not identify any operational issues with the amendments and as Network Rail has agreed the rights following due diligence, we are content to approve this SA.

ORR Decision

8. This application is under section 22 of the Act and therefore is agreed between the parties and there are no outstanding issues. We are content to approve this agreement.
9. In making this decision, we are satisfied that this decision reflects our duties under section 4 of the Act, in particular:
 - (i) to protect the interests of users of railway assets;
 - (ii) to promote the use of railway network in Great Britain for the carriage of passengers and goods and the development of that railway network, to the greatest extent ...economically practicable;
 - (iii) to promote efficiency and economy on the part of the persons providing railway services; and
 - (iv) to enable persons providing railway services to plan the future of their businesses with a reasonable degree of assurance.

Conformed copy

10. Under clause 18.2.4 of the TAC, Network Rail is required to produce a conformed copy, within 28 days of any amendment being made, and send copies to ORR and DBC. I look forward to receiving the conformed copy.

Yours sincerely

Margret Haswell