

**Louise Beilby**  
Senior Access Executive



18 July 2023

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Dear Paul and Sue

**Approval of the 1st supplemental agreement to the track access contract between Network Rail Infrastructure Limited and First Trenitalia West Coast Rail Limited dated 11 December 2022**

We have today approved the above supplemental agreement submitted to us formally on 18 July 2023 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 convert a number of calling points from their current contingent status to firm status to reflect the recast First Trenitalia West Coast Rail (trading as Avanti West Coast (AWC)) timetable. This entails amending Table 4.1 to move the rights in question from the Additional to the Regular column in service groups HF01, HF03, HF04, HF06 and HF08. The application was originally submitted as a section 22A but agreement between the access parties was reached when AWC reduced the number of Motherwell calls it sought. The rights are to commence upon ORR approval and will expire on the Expiry Date or earlier termination of AWC's track access contract.



## **Industry consultation**

Network Rail undertook the usual industry consultation. An objection was raised by Scotrail in relation to the proposed firm calling rights at Motherwell, on the basis that this would hamper Scotrail's ability to run a clock face timetable in that area. This is not currently possible due to interactions with other operators' paths, but it is an aspiration for Scotrail's future operational plans to return to pre-COVID-19 levels. Scotrail also advised that it has itself only been granted contingent rights for any amendments it has made to its current access agreement, for the purposes of protecting the aspirations of other operators, and it would therefore be unfair to Scotrail for firm rights to be granted to AWC.

Network Rail and AWC have attempted to resolve this issue by reducing the number of firm rights for Motherwell to the number that was accommodated in the December 2022 timetable. We have also noted that Scotrail does in fact have a number of firm Motherwell calls itself and that it currently has an outstanding supplemental agreement (34th SA) which proposes to decrease the number of services in the Lanark corridor which serves Motherwell station. It appears from the application documents for this supplemental agreement that the benefit to AWC as a result of this service reduction was a known consequence and this did not seem to be a concern for the NR Scotland team.

As of the informal submission date, the objection remained outstanding and Scotrail is not willing to support any number of firm calling rights for AWC at Motherwell. Ongoing discussions between the applicants and Scotrail have failed to change this position.

## **ORR review**

We have reviewed the application from an operational point of view in particular, taking into account the current calling patterns of both operators and the effects that any increase in service quantum would have.

There seems to have been some confusion over the way the changes were expressed in AWC's application, leading Scotrail to believe that they would constitute an increase in service quantum rather than just a conversion from contingent rights to firm. We asked NR for clarification on this, as if there was indeed an increase, then Scotrail's objection would be valid. We found that there was no service quantum increase, and therefore both the AWC 1st SA and the Scotrail 34th SA could be approved without detrimental effect to Scotrail's Lanark corridor operations.

We also note that Scotrail does have firm calling rights at Motherwell, contrary to what it initially suggested, and so its services will not be "deprioritised" by the granting of firm rights to another operator.



### **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 Neil Sutton at Scotrail, the Department for Transport, and Network Rail's Policy and Access Team. Copies of the approval notice and the agreement will be placed on ORR's public register (website) 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 read 'Louise Beilby', with a stylized flourish at the end.

**Louise Beilby**