

**Ryan Holt**  
Access Executive



18 August 2023

Sarah McCarthy  
Customer Relationship  
Network Rail Infrastructure Ltd  
Waterloo General Office  
London  
SE1 8SW

Ian Kapur  
Head of Strategic Access Planning  
GB Railfreight Ltd  
3<sup>rd</sup> Floor  
55 Old Broad Street  
London, EC2M 1RX

Dear Sarah and Ian

## **Approval of the 29<sup>th</sup> Supplemental Agreement to the Track Access Contract between Network Rail Infrastructure Limited and GB Railfreight Limited dated 11 December 2016**

We have today approved the above supplemental agreement submitted to us formally on 17 August 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 grant GB Railfreight (GBRf) the rights necessary to operate rail services to move coaching stock around the UK. The firm rights that have been applied for will allow GBRf to run Train Operating Companies' maintenance movements as well as stock movements for "warm storage". The changes to the Schedule 5 Rights Table include 14 new firm access rights, 4 amended firm access rights and 14 deleted firm access rights all with 60-minute windows.

### **Industry consultation**

Network Rail (NR) undertook the usual industry consultation from 6 June to 7 July 2023. LNER and CrossCountry Trains raised similar objections to the supplemental agreement and questioned whether the proposed access rights are compatible with, or can be accommodated in, an East Coast Main Line (ECML) Event Steering Group (ESG) timetable. Network Rail responded that the paths are not new to the Working Timetable and that NR Capacity Planning has already considered and accepted the paths into the



ECML ESG timetable. London Travelwatch also asked NR to confirm that current passenger services would not be disrupted by this proposal, for which NR did so and explained that these freight trains are already running and there is no proposed change to volumes or patterns. There were no unresolved issues.

### **ORR review**

As part of our review of the application, I raised an issue with the proposed Rights Table. The submitted Form F includes that all proposed rights should have 60-minute windows however one of the rights in the Rights Table only had a 50-minute window. Ian Kapur (GBRf) confirmed that this was a typo in the Rights Table and would be amended in the formal submission. I also requested that all mention of the wording 'proposed' from the key in the Rights Table be deleted for the formal submission. Our review of the application raised no operational, performance or economic 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 Freight Operating Company. 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 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 'Ryan Holt', written over a horizontal line.

**Ryan Holt**