

APPLICATION TO THE OFFICE OF RAIL AND ROAD FOR A FREIGHT TRACK ACCESS CONTRACT, OR AN AMENDMENT TO AN EXISTING CONTRACT

ORR ensures that train operating companies have fair access to the rail network and that best use is made of capacity.

Use this form to apply to the Office of Rail and Road (ORR) for:

- Directions under section 17 of *The Railways Act 1993* (the Act) for a new track access contract. This is for companies who want to use Network Rail's network where the parties are not able (for whatever reason) to reach agreement.
- Approval for a new track access contract under section 18 of the Act. This is for use where terms have been agreed by the parties.
- Approval of a proposed amendment to an existing track access contract, agreed by both parties, under section 22 of the Act.
- Directions under section 22A of the Act for an amendment to an existing track access contract. This is for someone seeking an amendment to an existing track access contract to permit more extensive use of the railway facility if the parties are not able, for whatever reason, to reach agreement.

The form sets out ORR's standard information requirements for considering applications. Our [track access guidance](#) (and our [making an application](#) guidance in particular) explains the process, timescales and the issues we will consider. Please read the guidance before completing the contract and this form.

If the facility owner and beneficiary have agreed terms, the facility owner should fill in the form. If not, the beneficiary should fill in the form.

A pre-application industry consultation is usually required before submitting an application. Please see the industry [code of practice for track access application consultations](#) for more information.

Network Rail should normally take responsibility for the pre-application consultation, where the terms are agreed. Before a consultation is made, complete this form up to the end of section 8. You should fill in the rest of the form after the consultation and before applying to ORR.

If, in the case of section 17 and 22A applications, the beneficiary and Network Rail have been unable to agree terms, the beneficiary should:

- (a) ask Network Rail to conduct a pre-application consultation in line with the code of practice; or
- (b) conduct a pre-application consultation itself, in line with the code of practice; or
- (c) submit the application to ORR and ask ORR to conduct the consultation, in which case, please complete this form in full before submitting it to us.

We are happy to talk to you informally before you apply. Please contact us at Track.Access@orr.gov.uk. You should use our current [model freight track access contract](#) as your starting point. Please ensure that you are using the latest version of this form as published on our [website](#). We may ask for applications which have not used the latest templates to be resubmitted.

You may also use and adapt this form if necessary to apply to use railway facilities other than those of Network Rail. Do not use this form for HS1, for which a separate form is available on our [website](#).

1. Application Summary

1.1 Facility owner:

Network Rail Infrastructure Limited

1.2 Beneficiary Company:

GB Railfreight Limited

1.3 With which of the regions does this application interact?

Region:	Southern <input checked="" type="checkbox"/>	Eastern <input checked="" type="checkbox"/>	North West & Central <input checked="" type="checkbox"/>	Wales & Western <input checked="" type="checkbox"/>	Scotland's Railway <input checked="" type="checkbox"/>
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1.4 Application under the Railways Act 1993 section:

17	<input type="checkbox"/>	18	<input type="checkbox"/>	22	<input type="checkbox"/>	22A	<input checked="" type="checkbox"/>
				Supplemental Number:	25 th Supplemental		
				Current contract date:	December 2016		
				Current contract expiry date:	December 2026		

1.5 Executive summary of the proposed contract or amendment: (Brief & High Level)

GB Railfreight wishes to amend its current track access contract to incorporate firm access rights changes that support many of its long-established and some new Intermodal freight contracts. These are as follows:

96 x new firm access rights (these are all currently contingent access rights); 55 x amended firm access rights; 115 x deleted firm access rights.

Proposed commencement date:	As soon as this supplemental is approved
Expiry date:	December 2026 (PCD 2026)
Date Approved at SOAR	Not approved – Section 22A. The proposed rights were initially submitted to SOAR on 8 th January 2024
If rights currently running as TOVRs when did they commence?	Some of these services were entered into the Working Timetable as far back as 2018, with many in 2020 and some during 2023.

1.6 Industry consultation:

Who carried out the consultation?	Network Rail, on behalf of GB Railfreight		
Consultation start date:	28 th March 2024	Consultation end date:	30 th April 2024
Not carried out	<input type="checkbox"/>		

1.7 Applicant details

<u>Facility Owner</u> Company: Network Rail Infrastructure Limited Contact name: Sarah McCarthy Job title: Customer Relationship Executive Address: Waterloo General Offices, London, SE1 8SW Phone: [REDACTED] E-mail: [REDACTED]	<u>Beneficiary</u> Company: GB Railfreight Limited Contact name: Ian Kapur Job title: Head of Strategic Access Planning Address: 3 rd Floor, 55 Old Broad Street, London, EC2M 1RX Phone: [REDACTED] E-mail: [REDACTED]
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1.8 Date of application to ORR:

3rd May 2024

1.9 Checklist of documents attached to the application form:

- Proposed new contract or supplemental agreement
- Marked up Schedule 5 (where applicable)
- Marked up comparison to model contract (where applicable)
- All consultation correspondence (see below)
- Supporting evidence such as performance improvement plans or modelling exercises.
- Other supporting documents, side letters or collateral agreements (please list):

APPENDIX A: Schedule 5 rights table showing only the proposed amended and deleted rights.

APPENDIX B: All external consultation responses.

1.10 Confidential redactions: If there is any information you want us to exclude from publication please list it here and provide full reasons for the redactions. Please provide a redacted version of the document(s) that we can publish.

Not applicable

2. Licence and railway safety certificate

2.1 Please state whether:

- you intend to operate the services yourself; or
- have them operated on your behalf.
 - if so, please name the proposed operating company:

2.2 Does the proposed operator of the services:

- (a) hold a valid train operating licence under section 8 of the Railways Act 1993 or an exemption under section 7, **and**
- (b) hold a valid safety certificate under the Railways and Other Guided Transport Systems (Safety) Regulations 2006.

If the answer to (a) **or** (b) is no, please state the point reached in obtaining a licence, exemption and/or safety certificate.

Not applicable

3. The proposed contract or amendment

3.1 Application overview: Please detail the proposed contract or amendment. This should cover the services, the commercial terms, and the reasons for making the application in the terms proposed. This information should be laid out clearly and concisely, and fully highlight the changes from the previous version of the contract (in the case of an amendment).

GB Railfreight wishes to amend its current track access contract to incorporate firm access rights changes that support its established Intermodal freight contracts.

These are as 96 new firm access rights (these are all currently contingent access rights) 55 amended firm access rights and 115 no longer used and deleted firm access rights.

Over the last three years, GB Railfreight has introduced several new Intermodal services, with new-to-rail container traffic, as well as making alterations to some existing Intermodal trains from a number of ports throughout the UK. This is in line with the updated Freight Market Study forecasts and other Long-Term Planning documents that predict continued strong Intermodal traffic growth for many years to come. Maritime Intermodal, in particular, is expected to be the biggest growth area for rail freight.

GB Railfreight has just invested in eleven more Class 66 locomotives and 84 new Ecofret 2® Intermodal wagons specifically for this type of fast-growing traffic. Ecofret 2® wagons allow for more containers to be carried per train leading to greater load efficiencies and thus reducing transport delays. These wagons also help to improve the spacing of containers reducing turbulence when trains are travelling at speed and thereby reducing fuel consumption. Therefore, increasing the proportion of goods carried by rail has an important role to play in making the UK deliver on its legal requirement for net zero carbon emissions. Retailers and manufacturers recognise the efficiency and great environmental benefits that rail freight offers, helping to improve air quality, reducing emissions and road traffic congestion. Many of the routes, over which these Intermodal services travel, have benefited from Strategic Freight Network investment and enhancement to W10 gauge clearance so these firm rights are to support exactly the services for which the various up-gradings were meant.

The changes, as shown in the attached Schedule 5 Rights Table (Appendix A), are being proposed to facilitate and protect GB Railfreight's long-term legitimate business and investments, described above, whilst maintaining a reasonable balance of flex for operational practicability on the whole of the network.

No material safety risks have been identified as arising from this application.

3.2 Capacity considerations: Please detail the steps taken by the parties to satisfy themselves that there is sufficient network capacity for the services in the proposal. Include details on all relevant capacity considerations, including but not limited to track and power supply traction. Will the proposed Rights operate over an area subject to a **Declaration of Congested Infrastructure**, or will the capacity requirement result in a Declaration of Congested Infrastructure by Network Rail (under the Network Code)

The proposed access rights, with 60-minute windows at each end, are to support currently running, and on-going, time-critical Intermodal freight services for just-in-time traffics, which are particularly time-sensitive and part of a long logistical world-wide chain.

These services require clearly defined arrival and departure times to tie into port and inland terminal slots at each end of the route, where the "main line" capacity can be quite challenging and very limited terminal arrival/departure slots have got to be met, especially at the busier ports and receiving depots. Correct and robust slots are also paramount to on-going network performance. Tightly defined train slots (60-minute windows) also help to ensure that the very large investment in infrastructure and newly-built locomotives and wagons are used to their maximum and that there are no stranded investments over the course of their 30 year life, for either GBRf or 3rd party investments. This is also paramount to both delivery of product and on-going network performance.

All the firm rights have associated train slots offered in the December 2023 Working Timetable. They take into account the Operating Constraints, consisting of the Engineering Access Statement detailing possession opportunities for the Infrastructure Maintainer, the Timetable Planning Rules, also the Working Timetable and associated Sectional Appendices to ensure the train runs within the capability of the Network.

In offering validated paths, Network Rail will have satisfied itself that the slots are fully Timetable Planning Rules compliant and that appropriate use has been made of available capacity taking into account the Decision Criteria.

Sufficient network capacity, and also the off-network capacity, has been found without any infrastructure enhancements currently being required. There have been detailed discussions between GBRf and Network Rail Routes & Regions, including on the performance aspects of these services, and there are now no outstanding concerns with performance.

Indeed, Southern Region, Anglia Route, Western & Wales Region, Scotland's Railway and Network Rail's Capacity Planning have all approved and supported all aspects of this 25th Supplemental Agreement.

It is Eastern Region that still has concerns due to the interaction with the recent ECML ESG timetabling work. GB Railfreight believes that to grant firm access rights, at these specific time windows, would be the appropriate balance for ORR in discharging its statutory duties under Section 4 of the Act. The following duties are very relevant to the granting of firm access rights:

- Section 4(1)(a) – to protect the interests of users of railway services
- Section 4(1)(b) – to promote the use of the railway network in Great Britain for the carriage of goods
- Section 4(1)(ba) – to contribute to the development of an integrated system of transport of goods
- Section 4(1)(c) – to promote efficiency and economy on the part of persons providing railway services
- Section 4(1)(g) – to enable persons providing railway services to plan their businesses with a reasonable degree of assurance

Combined with Network Rail's Network Licence conditions, GB Railfreight believes all is in place for ORR to approve these proposed new rights so that GB Railfreight can plan its legitimate business in a timely, efficient and economical matter so as to satisfy its reasonable requirements in providing services with a reasonable degree of certainty.

3.3 Safety risks: Please explain any important safety risks that have been identified arising from the proposal and how these will be controlled (by reference to the facility owner's safety authorisation and the train operator's safety certificate).

No safety risks have been identified throughout the consultation process.

3.4 Contract duration: For new agreements or extensions to existing agreements, please provide justification for the proposed duration and, if more than 5 years, with reference to the [Railways \(Access, Management and Licensing\) Regulations 2016](#).

Not applicable.

3.5 Performance: Are there any implications for overall network performance? Please outline your assurance process that shows that any performance risk is tolerable in comparison to the benefits of

the application. Please explain any risk mitigations. Please attach any associated evidence to support your case.

There are no implications on overall network performance from this supplemental agreement, as the rights proposed by this application all have validated train slots in the current and previous working timetables and have been running for this length of time (or longer in some cases) with no significant negative performance impact.

3.6 Maintenance and renewals: Are there any implications for the facility owner's maintenance and renewal activities?

No implications have been identified throughout the consultation process.

3.7 Terms not agreed with the facility owner (for applications under sections 17 or 22A only): Please explain any areas of the application which have ***not*** been agreed, the reasons for the failure to agree and the reasons for seeking these provisions.

NETWORK RAIL (EASTERN REGION) ITEM NOT AGREED:

GB Railfreight viewpoint on this application:

GB Railfreight has been heavily involved with Eastern Region and its several East Coast Main Line Event Steering Group (ESG) workstreams, over several years, and has worked through a large amount of detail on its various freight train slots on the ECML, its branches and also neighbouring Anglia Route to help in the overall ESG process as best it can.

However, there have been just too many ECML access rights policies, since 2012, stopping open access freight operators, such as ourselves, from carrying out our normal day-to-day business and abiding by the agreed process for obtaining firm access rights for running services that have been in the Working Timetable for over 12 months.

Whilst these ECML "timetabling exercises" are nothing more than that (i.e. there is no defined timetable change actually agreed to take place), the defined process for attaining firm access rights for freight companies' running traffic cannot keep being frustrated by others' unfunded and unagreed aspirations.

Indeed, Southern Region, Anglia Route, Western & Wales Region, Scotland's Railway and Network Rail's Capacity Planning have all approved and supported all aspects of this 25th Supplemental Agreement. It is other parts of Eastern Region that still has concerns due to the interaction with the recent ECML ESG timetabling work which is not being implemented in its recent proposed form.

For the avoidance of doubt, GB Railfreight is wanting these firm access rights to be incorporated into its track access contract as soon as possible, not least as there is no certainty in the future of other ECML timetabling work.

Network Rail viewpoint (GBRf is not in agreement with all items stated here):

This application for access right aspirations interacts with a number of other unsupported application and known aspirations. As with other operators, Network Rail has taken a pragmatic approach in considering applications for additional access rights where there are known or potential interacting aspirations. Network Rail has sought to sell dated access rights (where applicable) with no continuity or expectation of rights (stated in the SoAR Panel decision and Form F), as Network Rail has done with GB Railfreight's 37th Supplemental Agreement (some Intermodal rights applied for and granted as Contingent Rights up to the last day of SCD 2024 Timetable).

GB Railfreight, along with these operators, has a number of interacting access rights aspirations for services, which are proposed to commence at different dates (i.e., December 24, May 25 and December 25). The interactions are different at different points in time, which without assessing is difficult for Network Rail to know what impact those aspirations have on each other.

Network Rail has held the same position with the interacting operators. This is to enable Network Rail to continue with the sale of access rights process without overselling capacity, until such time decisions on the applications are made. As all these operators have approached Network Rail and the ORR at different times, for different timetable start dates, it increases the interaction on each other's aspirations at different points in time.

Therefore, Network Rail needs the opportunity to assess the aspirations these operators have and their interactions with each other, as well as undertaking the necessary assurance to understand the impact of these services individually and collectively.

Regardless of the above, due to the East Coast Mainline Policy, for those access rights aspirations on the ECML route, Network Rail would only have supported as contingent rights in line with the policy.

GB Railfreight's comments on the above Network Rail wording:

In response to the above Network Rail wording, GB Railfreight does not believe it currently has any application for firm access rights which are stating a commencement date of May 2025 or December 2025.

It is GB Railfreight's firm view that one of Network Rail's clear responsibilities is to be able to promptly and adequately assess its network capacity so that access rights applications can be dealt with on an informed basis.

3.8 Bespoke provisions (departures from ORR's model access contracts)

Does the proposed contract include any departures from ORR's model access contract:

Yes

No

If yes, please set out and explain any:

- areas where the drafting of the application changes ORR's published template access contracts (as appropriate, cross-referencing to the answers below). Please also explain why these departures have been made.

Not applicable.

- instances where the proposal departs from the charging and/or performance regimes established by ORR's latest periodic review (or subsequent interim reviews) as reflected in ORR's model access contracts, including the financial implications (e.g. establishment of an access charge supplement or rebate).

Not applicable.

- new processes (e.g. a self-modification provision) which have been added. Please also demonstrate fully how this new process is robust and complete.

Not applicable.

3.9 Consolidated contract

For amendments to existing contracts, is the version of the consolidated contract on our [website](#) fully up to date? If not, please explain why not.

The version of the consolidated contract on the website is currently fully up to date. Were this 25th Supplemental Agreement to be approved, its contents would then need to be incorporated into that on the ORR website.

4. The expression of access rights

4.1 Changes to rights: please provide full descriptions of any new rights required, as compared to the previous contract (in the case of an amendment). Please attach a fully marked-up version or document comparison of any tables in Schedule 5 which are being modified as a result of this application.

Full details of the new and amended firm access rights sought in this application are in Appendix A, colour-coded to show new, amended and deleted firm rights.

4.2 Firm rights: Do the Firm Rights in the proposal contract relate to service freight haulage contracts which you hold or will hold? If so, how? How does the duration of these haulage contracts compare with the duration of the proposed track access contract?

The contracts involved with these flows fall partially within GBRf's current Track Access Contract term, with some continuing beyond the December 2026 expiry deadline. Approving these rights for the full period of GBRf's track access contract, however, also gives GBRf and its customers the confidence to service the current contracts and also to confidently renegotiate them, when due, on an equal basis with other freight operators.

When any of the Freight Access Rights are no longer required during the course of this contract, there are two processes that currently cater for changes to be made to GBRf's track access contract and, therefore, the removal of rights and train slots on a regular basis:

Condition J9 – The Rights Review Meeting: This states that Network Rail shall hold Rights Review Meetings with operators as frequently as necessary in order for it to ensure that capacity on the network is shared in the most efficient and economical manner in the overall interests of users, providers, potential providers and funders of railway services. This condition exists now and should be the main driver of always ensuring maximum capacity. In essence, this application is exactly the result of such a review.

Capacity Management Review Group: This is the joint Freight Operating Companies & Network Rail capacity working group, having started on 9th April 2014 as a result of the CP5 Freight Access Charges determination. Its purpose is to review and amend current and future rail freight paths based on a "usefulness" and "reasonableness" test. After discussion, GB Railfreight train slots are either removed from the timetable or turned into strategic capacity.

From 9th April 2014 up to 27th March 2024, on an on-going basis, 8,849 schedules have been relinquished – 6,706 have been completely removed from the timetable, as traffic patterns have altered, and 2,143 have been used and revised to go into strategic capacity.

This system is the correct way forward and strikes the right balance between removal of unused rights & paths and keeping relevant and useful paths for strategic capacity and future freight use. The Capacity Management Review Group convenes every three months to ensure correct industry decisions are made.

These two mechanisms are how any rights that are not being exercised are removed from GB Railfreight's long-term track access contract.

4.3 Contingent Rights: Please set out the extent to which you expect to use the Contingent Rights in the application. In particular, please state whether the proposed rights are seasonal (eg 3 months each year) or occasional (eg MO, SX, etc)..

There are no Contingent Rights being sought in this application.

4.4 Window size: Please set out the reasons for the origin and destination window sizes used in the Rights Table in Schedule 5.

As stated in paragraph 76 of ORR's "*Directions in respect of a track access contract between Network Rail Infrastructure Limited and GB Railfreight Limited*" document, dated 29th February 2016, ORR expects the default position for window size of freight firm rights, backed by commercial contracts with end users, to effectively be one-hour windows. One-hour windows will preserve each of GBRf's end-users' confidence in its ability to provide the train services and timings they need and enables GBRf to plan the future of its business with a reasonable degree of assurance.

In addition, GBRf believes that the detailed explanations given in previous sections of this application articulate the reasoning why a 60 minutes window is fair and reasonable for GBRf in managing its business with a reasonable degree of certainty.

4.5 Long Term Planning Process: Is the Long Term Planning Process (or similar devolved authority or regional service delivery project) relevant to this application? If so, please explain how the proposed rights are consistent or inconsistent with this.

This application is consistent with all established Route Studies on the UK Rail network. Additionally, the *Long-Term Planning Process: Freight Market Study*, established in December 2013, and its 2019 updated forecast figures, have stated that, overall, rail freight is expected to continue to strongly grow, and the maritime Intermodal sector in particular. This is being borne out by strong growth by GB Railfreight over the last eight years.

This application for these Intermodal freight services is exactly for the growth traffic described.

6. Incentives

6.1 Train operator performance: please describe any planned projects associated with the operation of the proposed services aimed at improving your performance.

Contained in the agreements between GB Railfreight and its customers are updated performance regimes which include right time arrivals and departures as KPIs, with financial penalty. GBRf's twelve Operations Managers are now responsible, and directly accountable, for right-time departures (and arrivals) for the terminals served by GBRf services.

GB Railfreight has also, very recently, invested in eleven additional Class 66 locomotives, 10 Class 69 locomotives and 84 new Ecofret 2® wagons, they being exactly for these traffics. A wider availability of locomotives will assist in attaining even greater levels of good performance across our traffics, UK-wide.

The use of i-Pad is being used for remote condition monitoring, mainly for levels of fuel, sand, brake blocks and coolant with a view to reducing main line failures and delays.

This is a novel way to anticipate faults before they occur and using technology to help improvement performance over all routes. Additionally, in recent months, more “intelligent” remote data downloading has come into use of GBRf’s Class 66 locomotives.

All of GBRf’s train lists are now produced using mobile-consisting technology, leading to fewer delays due to paperwork issues. The aim of all of these is to realise a better operational plan and to deliver more robust freight performance throughout the network. They also help to provide more accurate Sectional Running Times and offer an increased level of clarity for unexplained delays.

In addition to the above, performance regime briefs are regularly given to all GBRf staff, including drivers, ground staff and controllers and all new performance incentives have been introduced with GB Railfreight’s locomotive and wagon maintenance suppliers.

All of these will help improve network performance for a large percentage of trains that GB Railfreight runs.

6.2 Facility owner performance: please describe any planned projects associated with the operation of the proposed services aimed at improving the facility owner’s own performance.

No planned projects for services in this application.

6.3 Restrictions of use: set out and explain the reasons for any changes from the Restrictions of Use regime in the model freight track access contract (Schedule 4)

There are no changes to the Restrictions of Use regime.

7. Enhancement

7.1 Enhancement details: Please provide details of any relevant enhancement schemes. Where the proposal delivers part of, or the associated services are subject to, a network enhancement, please summarise the outputs and timescales of the scheme and explain the extent to which the Part G Network Change procedure has been completed.

There are no network enhancements associated with this application nor are any of the proposed services subject to network enhancements. All the Firm Rights in this application have associated train slots already offered to GB Railfreight in the December 2023 Timetable.

7.2 Enhancement charges: please confirm that the arrangements for the funding of any network enhancements are consistent with the [investment framework](#), and summarise the level and duration of payments, and the assumed rate of return.

Not relevant to this application.

8. Associated access contracts

8.1 Associated applications to ORR: please state whether this application is being made in parallel with, or relates to, any other previous, current or forthcoming applications to ORR (e.g. in respect of track access, station or light maintenance depot access contracts). Where the application is being made in parallel with any other application from the same operator, please ensure the applications are consistent with one another. Where the application relies on another operator relinquishing access rights, please provide details.

No other applications are applicable.

8.2 Unregulated access: please comment on whether any contracts are being negotiated for access to a facility adjoining Network Rail's network (e.g. to a freight light maintenance depot), including where ORR's approval is not required. For more information, see [The Railways \(Class and Miscellaneous Exemptions\) Order 1994](#). (This is relevant in the context of clause 6.4 of the model contract.)

Not relevant to this application.

9. Pre-application consultation

9.1 The consultation:

If consultation has not been carried out, explain why not.

Not applicable – see box below.

If a consultation has been carried out please:

- state who conducted the consultation;
- list all train operators and any other parties that were consulted, stating which parties responded and attach their responses and any associated documentation to this form; and
- state the period allowed for the consultation. If this was less than one calendar month, please explain the reasons for this.
- If the consultation was concluded some time ago, please explain why you consider it is still valid.
- have there been any material changes since consultation that could affect the validity of the responses received?
- please list any information that you have redacted from any documentation sent to consultees and the reasons for the redactions.

The following consultees have had a full consultation, conducted by Network Rail on behalf of GB Railfreight Limited, which has taken place from 28th March 2024 to 30th April 2024:

Greater Anglia; ScotRail; Transport Scotland; Arriva Rail London; Arriva Rail North; East Midlands Trains; Great Western Railway; South Western Railway; First Trans-Pennine Express; Govia Thameslink Railway; Transport for Wales Rail; South Eastern Railway; LNER; Merseyrail; Transport for London; MTR Crossrail; Serco; Chiltern Railways; c2c Rail; Virgin Trains; West Midlands Trains; Cross-Country Trains; Chinnor Railway; First Group Rail; Eurostar; Ffestiniog & Welsh Highland Railway; Grand Central; Heathrow; Heathrow Express; Hull Trains; Nexus; North Yorkshire Moors Railway; Peak Rail; Supertram; West Coast Railway Co.; Alliance Rail; Go-Op; Pre-Metro; First Class Partnerships; Direct Rail Services; Locomotive Services Ltd.; DB Cargo; Rail Operations Group; Vintage Trains; Colas Rail; Devon & Cornwall Railways; Freightliner Ltd; Freightliner Heavy Haul; Harsco Rail; Loram; Victa Railfreight; High Speed One Ltd; Hutchison Ports (UK) Ltd.; Maritime Transport; MDS Transmodal; London Travelwatch; Transport for Greater Manchester; Merseytravel; Liverpool City Region Combined Authority; South Yorkshire PTE; Centro; West Yorkshire Combined Authority; Department for Transport; Office of Rail & Road; Rail Freight Group; Network Rail; Transport Focus; Welsh Government.

Details of responses received from any of the parties can be found in Appendix B.

9.2 Resolved issues: please explain any issues raised by consultees which have been resolved.

There are no issues that have been raised and for which further discussions have lead to resolution. For completeness, there has been a response from London Travelwatch stating "*London Travelwatch has no comments on this specific proposal though we urge for the protection of the option to increase passenger services wherever possible*". On the basis that it states "*it has no comments on this specific*

proposal” and that it is for all parties (including ORR) to note its point about passenger serviced options, no further response to London Travelwatch has been made.

9.3 Unresolved issues: Please explain any issues raised by consultees which have **not** been satisfactorily resolved and why you think these issues should not stop ORR approving the application. Include details of steps taken to resolve the dispute such as meetings or counter offers and provide copies of correspondence where available.

West Yorkshire Combined Authority:

A response from West Yorkshire Combined Authority to Network Rail has stated its “*support for the growth of rail freight in West Yorkshire and across the country*” and that “*if firm rights can be safely and effectively incorporated unto the timetable, we support the amendments*”. It is GB Railfreight’s view that this can be done and, hence, GBRf has not responded. The response then goes on to state that “*we wouldn’t want firm rights to be incorporated to the detriment of other services, freight or passenger*”. It is clear to GB Railfreight that, in order to satisfactorily close out what might be being implied, here, further ECML timetabling work will need to inform Network Rail’s response. GB Railfreight is then looking to ORR to weigh up all relevant applications once further capacity information is provided by Network Rail.

London North Eastern Railway:

LNER objects to this application until such time as further ECML timetable development work is concluded. Given the conversations that have also been had at recent ECML timetable industry meetings, it is GB Railfreight’s view that there is nothing further that can be added to resolve LNER’s objection. GB Railfreight is, therefore, looking to ORR to weigh up all relevant applications once further capacity information is provided by Network Rail.

Cross Country Trains:

Cross Country Trains is unable to support this application as it states that further information is required to understand capacity allocations and constraints as a result of future ECML timetabling. GB Railfreight cannot provide the necessary comfort that Cross Country Trains requires and GB Railfreight is looking to ORR to weigh up all relevant applications once further capacity information is provided by Network Rail.

Northern Rail:

Northern Rail has asked whether or not GB Railfreight can confirm if the specified services run today and whether or not there is sufficient capacity for these services in the timetable. GB Railfreight has confirmed that the current contingent rights being amended to firm rights all have train slots in the December 2023 and June 2024 timetables, and that they have all been bid to run in the December 2024 timetable.

However, as Network Rail (Capacity Planning) has only just commenced the formal production process for the December 2024 timetable, GB Railfreight cannot comment on whether or not there is capacity for additional passenger service aspirations to be included in any future timetable. It is not for GB Railfreight to comment any further on this aspect given that Network Rail must come to these conclusions. Therefore, Network Rail will need to provide further capacity analysis information once it has worked this through.

However, taking all these concerns regarding future passenger service aspirations into account, the securing of GB Railfreight’s current business, with firm access rights, cannot be delayed any longer given that many of the services specified in this supplemental have been operating with firm rights for a number of years.

10 Certification

Warning: Under section 146 of the Railways Act 1993, any person who, in giving any information or making any application under or for the purposes of any provision of the Railways Act 1993, makes any statement which he knows to be false in a material particular, or recklessly makes any statement which is false in a material particular, is guilty of an offence and so liable to criminal prosecution.

In the case of agreed applications under section 18 or 22, the facility owner should fill in the information in the box below. For disputed applications under section 17 or 22A, the applicant should fill in the required information.

I certify that the information provided in this form is true and complete to the best of my knowledge:

Signed: _____ Date: 8th May 2024
Name (in caps): IAN KAPUR Job title: HEAD OF STRATEGIC ACCESS PLANNING
For (company): GB RAILFREIGHT LIMITED

For section 18/22 applications, please provide a letter of support from the beneficiary or ask them to sign here:

Signed Date.....
Name (in caps) Job title
For (company)

11. Submission

11.1 What to send: please supply the application form, the proposed contract or amendment and, where possible, any other supporting information, in electronic form by e-mail, **in plain Microsoft Word or Open Document Text format** (i.e. excluding any macros, auto-para or page numbering, or other auto-formatting).

11.2 Where to send it:

Freight Track Access Manager Email: track.access@orr.gov.uk