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Andy Wylie
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Dear Mark and Andy

28th Supplemental Agreement to the Track Access Contract between Network Rail Infrastructure Limited (Network Rail) and Hull Trains Company Limited (trading as Hull Trains) dated 17 March 2016

Today we issued directions under section 22A of the Railways Act 1993 (the Act) to Network Rail and Hull Trains (jointly the parties) to enter into the above supplemental agreement. ORR's approval of this application ensures that Hull Trains can continue to provide additional weekend services between London and Hull, provides continuity of services to its passengers, and will give the train operator certainty for the purposes of planning its business. This letter explains the reasons for our decision.

Application

The purpose of this supplemental agreement is to convert the short-term contingent rights currently held by Hull Trains for the operation of one existing weekend return service between Hull and London Kings Cross to firm rights until the end of Hull Train's current contract (December 2032).

Network Rail proposed granting Hull Trains the rights until December 2025 on a contingent basis with no expectation of continuity. To maintain service continuity, ORR approved the rights which Network Rail supported on this basis as part of the 31st supplemental agreement. However, Hull Trains has maintained its application to hold them on a firm longer-term basis (to the end of its contract).

The rights are to commence on a firm basis upon the date that the supplemental agreement is entered into by the parties and will expire on the Principal Change Date



(PCD) in December 2032 or earlier in the event of termination of Hull Train's track access contract.

Industry consultation

Network Rail undertook an industry consultation for one month in May and June 2024.

Comments in support or raising no objection were received from GBRf, Grand Central, Northern, Transport Focus and West Yorkshire Combined Authority.

CrossCountry, GTR and LNER stated that they were unable to support this application due to the ongoing work with the ECML Event Steering Group (ESG) timetable. The basis of the objection was that until the ECML ESG is resolved, operators were unable to support a conversion of contingent rights to firm rights. Similarly, DB Cargo, Freightliner and TPE advised they could not support the application until any potential impacts on their services and aspirations were identified through Network Rail's ECML capacity assessments.

Statutory Consultation

As required under the Act, on 30 May 2024, we sought Network Rail's representations on the application and it replied on 28 June 2024. We forwarded these representations to Hull Trains on 3 July 2024 and asked for its comments. Hull Trains provided comments on 22 July 2024.

Network Rail's representations

Network Rail stated that it was unable to support the application at that time because it requested rights falling under the ECML Access Rights umbrella and due to the ongoing ECML ESG work with the ECML Taskforce.

Hull Trains' comments

Hull Trains objected to the ECML access policy extending to weekend services, noting that there is lower level of capacity constraint on the ECML at weekends, and that the application was limited to transferring only one return weekend right for a service which are already operating from contingent to firm.

ORR review

These are existing services which are already running in the timetable and confirmed as being included in the ECML timetable recast currently planned for December 2025 implementation. We view that granting these rights on a longer-term, firm basis will provide Hull Trains with business and operational certainty, and their passengers with service continuity.



Our review of the application on an operational and performance basis pointed to approval. The rights and services are well understood in the existing timetable, having been running since Hull Trains returned to its full timetable in 2022. Network Rail has confirmed that these services are included in its development of the ECML timetable recast, so are part of the foundation for future timetables. This is confirmation of one additional right on a Saturday and Sunday, which we expect Network Rail to be able to accommodate through application of its ability to “flex” the timetable.

We have made this decision while Eastern region is under additional regulatory scrutiny for the punctuality and reliability of train services. Not least because the services relating to these rights are already in operation and are planned into future timetables, we have assessed that this decision does not materially change the nature or content of the performance improvement activity required.

Our review did not raise any economic concerns. We previously carried out an economic appraisal of the additional rights in our assessment of Hull Train’s 6th and 18th supplemental agreements.

Our duties under section 4 of the Act and our decision

We have considered the supplemental agreement in light of our statutory duties under section 4 of the Act. We have concluded that approval of this supplemental agreement is consistent with the discharge of our statutory duties; in particular, those relating to promoting improvements in railway service performance (section 4(1)(zb)), 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)), promoting competition in the provision of railway services for the benefit of users of railway services (section 4(1)(d)) and enabling persons providing railway services to plan their businesses with a reasonable degree of assurance (section 4(1)(g)).

We have looked very closely at all the evidence submitted from the parties and consultees. We have concluded that we should approve the application.

Conformed copy of the track access contract

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 Hull Trains. ORR’s copy should be sent for my attention.

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



David Reed