

15 April 2015

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Dear All,

## **Approval of Facility Access Contracts between Associated British Ports and Colas Rail Limited, Direct Rail Services Limited and GB Railfreight Limited**

1. The Office of Rail Regulation (ORR) has today approved the terms of the facility access contracts (FACs) submitted by Associated British Ports (ABP) under section 18 of the Railways Act 1993 (the Act), and has directed ABP to enter into all of them. The purpose of this letter is to set out the reasons for this set of decisions.

### **Purpose of the contracts**

2. The purpose of these contracts is to grant three freight operating train companies (FOCs) the necessary rights to access ABP's port terminals. The agreement specifies that the FOCs will use the facilities for haulage of services and carriage of goods to and from the terminals. The rights are to commence on the date of signature of this contract and will expire on 31<sup>st</sup> March 2020.

3. The proposed contracts are:

FOC	Facility
GB Railfreight	South Wales ports of Newport, Cardiff, Barry and Swansea
Direct Rail Services	Port of Immingham

Colas Rail	Port of Immingham
Colas Rail	South Wales ports of Newport, Cardiff, Barry and Swansea

### Consultation

3. The consultations were carried out, with no issues raised, as follows:

FAC	Commenced	Ended
GB Railfreight at South Wales ports	6 February 15	27 February 15
Direct Rail Services at Immingham	6 February 15	27 February 15
Colas Rail at Immingham	9 February 15	2 March 15
Colas Rail at the South Wales ports	4 March 15	25 March 15

### ORR policy and review

4. The terms have been agreed between ABP and the relevant parties and are based on standard terms similar to ABP FACs already approved by ORR. ORR has not identified any economic or performance concerns with these current FACs.

### Conclusions

5. In considering the contract and in reaching our decision, we have had to weigh and strike the appropriate balance in discharging our statutory duties under section 4 of the Act. We have concluded that issuing directions in respect of this contract is consistent with our section 4 duties, in particular those relating to:

- (a) promote improvements in railway service performance;
- (b) promote the use of the railway network in Great Britain for the carriage of passengers and goods, and the development of the railway network, to the greatest extent that ORR considers economically practicable;
- (c) contribute to the development of an integrated system of transport of passengers and goods;
- (d) promote competition in the provision of railway services; and
- (e) enable persons providing railway services to plan the future of their businesses with a reasonable degree of assurance.

### ORR's public register

6. ORR is required under section 72 of the Act to maintain a public register which must include, *inter alia*, every direction to enter into an access contract. Would you therefore



please send me two copies of the signed contract no later than 14 days after the date upon which the contract is entered into, as required by section 72(5) of the Act.

7. In placing any contract on the public register, we are required to have regard to the need for excluding, so far as that is practicable, the matters referred to in section 71(2)(a) and (b) of the Act. These cover:

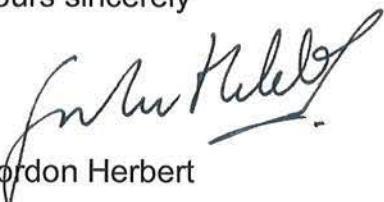
- (a) any matter which relates to the affairs of an individual, where publication of that matter would or might, in the opinion of ORR, seriously and prejudicially affect the interests of that individual; and
- (b) any matter which relates specifically to the affairs of a particular body of persons, whether corporate or unincorporate, where publication of that matter would or might, in the opinion of ORR, seriously and prejudicially affect the interests of that body.

8. When you submit the copies of the signed contract would you therefore please list any aspects of the contract which you wish us to consider excluding from our register and explain why you consider how they meet the requirements of sections 71(2)(a) or (b).

#### **Administration**

9. A copy of this letter will be sent to Chris Geldard of Geldard Consulting Limited.

Yours sincerely



Gordon Herbert



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