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Dear Katherine,

11 November 2016

## **NEW GENERAL APPROVAL FOR FREIGHT TRACK ACCESS CONTRACTS**

This letter constitutes the response of DB Cargo (UK) Limited ("DBC UK") to ORR's consultation document dated 30 September 2016 and entitled "New General Approval for freight track access contracts".

### General Comments

DBC UK welcomes ORR's intention to review and reissue its General Approval for freight track access contracts so that it can be in place before DBC UK's new long term freight track access agreement with Network Rail commences on 11 December 2016. DBC UK supports the use of General Approvals as they can greatly reduce the time and effort required for making non-contentious changes to an operator's access rights.

### ORR's specific questions

***Q1. Is the proposed range of the arrival and departure windows that can be generally approved useful? Should this range be broader or narrower, and if so, why?***

DBC UK is content with ORR's proposals to allow the General Approval to be used for departure and arrival windows of four hours and above. However, given that freight track access contracts containing the new 'windows' format of access rights have not yet commenced in earnest, it is difficult to assess whether this range should be broader or narrower. Perhaps therefore, it may be prudent for ORR to carry out review of the operation of the new General Approval in say 12 months by which time all parties using it may be better informed to judge whether the proposed range is appropriate or not.

DBC UK understands why access rights that are intended to operate over declared Congested Infrastructure are excluded from being 'generally approved' regardless of the size of window. However, given that rights to a particular route are granted as the exception rather than the rule, it is not clear whether this exclusion would also apply to relevant proposed access rights that could conceivably be routed over declared Congested Infrastructure but have no specific right in the Rights Table to be so routed



giving Network Rail the option to route them over an alternative route that has not been declared as 'Congested Infrastructure'.

***Q2. Should the provision for amending access rights to match the WTT be expanded, subject to successful industry consultation?***

DBC UK is content with ORR's proposals in this area as this should again reduce the need for ORR's specific approval on such changes. However, DBC UK is not clear from the wording of the proposed General Approval whether changes to reflect the timetable are intended to be generally approved only if the range of the departure and arrival windows remain the same but the actual start and finish times require equivalent movement around the clock-face. This is because DBC UK believes that it could be argued that the current wording of the General Approval appears to allow any amendment to the contents of the relevant columns in the Rights Table which could include changes resulting in the range of a 'window' being reduced (e.g. a four hour window to a one hour window). DBC UK believes that such an outcome is not intended so a review of the wording of the General Approval in this context may be prudent.

***Q3. Do you have any comments on the above proposed changes to the GA, or any amendments we have not included which you think we should consider?***

DBC UK believes that paragraph 4(c) of Annex D to the General Approval may need to be reviewed and revised as it appears to allow reductions to the contents of specified columns in the Rights Table which could result in much less flexible access rights (e.g. a reduction in the Minimum Turn Around Time at Origin from three hours to one hour). Again, DBC UK does not believe that such an outcome is intended and considers the problem appears to have been caused by giving the option to 'delete or reduce' each entry rather than using one or other option, both or the word 'increase' as appropriate. By way of example, it is perfectly possible to delete a 'Routing' but it is difficult to reduce it. In addition, to make access rights more flexible 'Minimum Turn Around Times' would be increased not reduced.

***Q4. We are required to review the impact of any regulatory changes. How will a revised GA impact on your business?***

DBC UK considers that the proposed General Approval would have a positive impact on its business because it will greatly contribute in many cases to reducing the time and effort in achieving amendments to its access rights.



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DBC UK hopes these comments are helpful. If you require any further information or clarification of DBC UK's views, please do not hesitate to contact me.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Nigel Oatway', with a large, sweeping flourish at the end.

**Nigel Oatway**  
**Access Manager**

cc   Gordon Herbert   ORR  
     Alexandra Wrightson   Network Rail  
     Mike Pybus   Network Rail

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