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Tom Causebrook
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Dear Andriana and Tom

Twenty seventh supplemental agreement to the track access contract between Network Rail Infrastructure Limited and Govia Thameslink Railway Limited (GTR)

1. We have today approved the above supplemental agreement submitted to us formally on 6 March 2019 under Section 22 of the Railways Act 1993 (the Act).

Background

2. The purpose of the agreement is to extend the parties' track access contract from SCD 2019 until SCD 2022 (apart from some ECML services, which will extend to SCD 2020 only). GTR initially applied to ORR to extend the contract on 31 July 2018 under Section 17 of the Act as, at that stage, it had not reached agreement with Network Rail. On 16 October 2018, following further discussions with Network Rail, GTR withdrew this application and said that they would submit an agreed S22 application.

Consultation

3. Network Rail undertook an industry consultation between 31 May and 28 June 2018 for the Section 17 application. As the S22 application is for the same access rights, no further consultation was undertaken.

4. London TravelWatch and Transport focus responded to the consultation and said that they supported the application. Cross Country and Greater Anglia responded with some comments and questions but these were resolved by correspondence with GTR.

5. Great Western Railway responded, saying it was concerned that this was not an agreed application and also referred to its aspirations for an enhanced Reading to Gatwick service being “fettered” by Thameslink rights. GTR replied and clarified that the application was only to extend existing rights.

6. East Midlands Trains (EMT) responded to the consultation, supporting Network Rail’s position for a shorter extension and stating that it would support an application that was extended to PCD 2020 only. This would allow Network Rail sufficient time to review operational performance and future EMT proposals to be considered in parallel with GTR ones.

7. In response, GTR said:

- Existing industry mechanisms already provide the parties with the incentive to monitor performance and take the necessary mitigations
- EMT’s aspirations for additional services had already been considered and included in the timetable construction
- The application was intended to extend access rights to the end of the franchise.

EMT subsequently confirmed that it had no further comments.

ORR review

8. We asked Network Rail for clarification regarding the rights for service group ET04 which included services on the ECML but still expired at SCD 2022 rather than SCD 2020. We also queried the effective date of the application. The parties provided answers that we were satisfied with.

9. We are satisfied that approval is in accordance with our statutory duties under section 4 of the Act.

10. In considering the agreement 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 approval of this supplemental agreement is consistent with our section 4 duties, 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)).

11. 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 Train Operator. ORR's copy should be sent for my attention.

12. Electronic copies of this letter, the approval notice and the agreement will be sent to Keith Merritt at Department for Transport and Peter Craig at Network Rail. Copies of the approval notice and the agreement will be placed on ORR's public register 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 be 'Jonathan Rodgers', is written over a faint dotted line.

Jonathan Rodgers