

David Reed
Senior Manager, Access Policy
Telephone: 020 7282 3754
Email: david.reed@orr.gsi.gov.uk



6 August 2019

James Mackay
Head of Regulations & Customer Relationships
HS1 Limited
5th Floor
Kings Place
90 York Way
London
N1 9AG

Jason Lewis
Head of International Network Strategy
Eurostar International Limited
Times House, Bravingtons Walk,
Regent Quarter
London
N1 9AW

Dear James and Jason,

Approval of the 6th Supplemental Agreement to the track access contract between HS1 Limited and Eurostar International Limited

The Office of Rail and Road (ORR) has today approved the 6th Supplemental Agreement to the track access contract between HS1 Limited (HS1) and Eurostar International Limited (EIL) (jointly the parties), submitted to us formally on 5 August 2019 under the Railways (Access, Management and Licensing of Railway Undertakings) Regulations 2016 (the 2016 Regulations). This follows an earlier informal submission of a draft agreement for our consideration. The purpose of this letter is to set out the reasons for our decision.

Purpose of the agreement

The agreement extends the contract from its current expiry date of 16 August 2019, to 16 August 2024. Additionally, a number of changes have been made to the expression of rights in Schedule 5, namely:

- to define EIL's Firm Rights by Timetable Period to better reflect the seasonal demand of EIL services; and
- to transfer a number of EIL's existing Brussels route Firm Rights to a new Service Group for Amsterdam reflecting the introduction of services to Rotterdam and Amsterdam from April 2018.

Consultation

A pre-application consultation was carried out in line with the HS1 Criteria and Procedures document between 10 May and 12 June 2019. Responses were received from:

- East Midland Trains, which confirmed it had no comments; and
- Network Rail (High Speed), which supported the proposal and made additional comments relating to EIL contingency plans in events when HS1 infrastructure is unavailable. This comment is not relevant to our approval, but HS1 Ltd has informed us they will be addressing it separately with EIL and Network Rail (High Speed).

Our review

We reviewed the draft agreement and suggested minor drafting changes; the parties reflected these suggestions in the revised contract.

This amendment does not alter the existing structure of charges for EIL. HS1 Ltd has recently consulted on changes to its structure of charges. ORR plans to review these proposed changes through our the 2019 Periodic Review of HS1, which is currently underway and will conclude in time for the start of HS1 Ltd's Control Period 3 (CP3) on 1 April 2020. HS1 Ltd has confirmed that it will apply any difference in charges required to comply with recent European rules on charging as a wash-up at the end of Control Period 2 (CP2).

ORR's conclusions

Pursuant to Regulation 31(1) of the Regulations, in considering the application and in reaching our decision, we are required to weigh and strike the appropriate balance in discharging our statutory duties under section 4 of the Railways Act 1993. Approval of this application is consistent with these duties; in particular our duties to:

- protect the interests of users of rail services;
- 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;
- contribute to the development of an integrated system of transport of passengers and goods; and



- enable persons providing railway service to plan the future of their businesses with a reasonable degree of assurance.

Conformed copy of the track access contract, public register and administration

Pursuant to paragraph 3.75 of the C&Ps, HS1 Ltd is required to produce a conformed copy of the track access agreement within 28 days of any amendment being made, and to send a copy to ORR. I look forward to receiving the conformed copy.

We will place a copy of the supplemental agreement on our public register.

Yours sincerely

A handwritten signature in black ink, appearing to read 'David Reed', is positioned below the text 'Yours sincerely'.

David Reed