

Chris Brandon
Alliance Rail Holdings
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Dear Chris

Great North Eastern Railway Company Limited (“GNER”) S17 Application

Thank you for the opportunity to respond to your latest Track Access Application for new services to West Yorkshire and Cleethorpes.

Revenue Abstraction

We believe that the abstraction from this proposal will be on an unprecedented scale, particularly for services calling at Leeds. We note David Roberts’ letter to Richard McClean dated 21 September 2012 (rejecting Grand Central’s application for a 4th Bradford < > King’s Cross service via Leeds as the proposal was primarily abstractive). Given that this application results in a far higher level of abstraction, we believe that it would be entirely consistent with its previous decision for ORR to also reject this proposal. Indeed, our own analysis supports our conclusion that this application is primarily abstractive. We will share this analysis with ORR. The revenue abstraction would significantly reduce funds available to the Secretary of State, significantly reduce long term franchise value and put at risk the business case for any future government investment in the ECML. For these reasons, we object to your application.

We note that the application relies on a statement made by Stephen Hammond MP on 23 January 2014 stating the benefits of Open Access. You will also be aware of the Government’s Command Paper *Reforming our Railways: Putting the Customer First (2012)*. This paper sets out the Governments overall policy towards open access: “Given the UK’s financial position, Government does not therefore at this stage support an increase in open access competition” (Paragraph 4.42).

Capacity

We believe that the East Coast Main Line is capacity constrained. Clearly with the CP4 and CP5 interventions, additional capacity will be available. However, until Network Rail produces its Capacity Report, we will not know for certain exactly what additional capacity is available and from when. Our own aspirations are to run 6 TPH (off peak) and 7 TPH in the peak – our imminent track access application will provide further

details. It is difficult to see how all these additional services can be accommodated unless one or more of the existing long distance operators actually runs fewer services in the future.

We believe that in any event, a major recast of the ECML timetable will be required to accommodate additional services – we believe that the best way to achieve this is to have one major recast at the optimal time to take advantage of all the infrastructure enhancements and investment in new rolling stock comes on line.

In addition, before the ORR makes any decision on this proposal, we believe that it should take into account alternative applications from the franchise operator. Given the re-franchising competition, this may require waiting for the successor operator to make an application. This is particularly important, given that the future franchised operator has the option to run services to a number of destinations in West Yorkshire beyond Leeds.

Access Charges

We note and welcome the ORR's intention to review Access Charges in early CP5 and the RDG workstream. Given the inequality of the current regime, we believe that significant change is required to enable an economically sustainable railway going forwards. We believe that all operators on the ECML should pay access charges on the same basis and the charges should reflect the economic value of the capacity being used. Access charges regime should support the principle of making best use of capacity.

Given that the charging regime for CP6 and beyond could be very different from the current regime, in order to allow Alliance to plan the future of their business with a reasonable degree of assurance, we do not believe that it would be appropriate for any new long term access rights for open access operators to be granted.

Draft Track Access Contract

We note that the expiry date is 2031. We do not believe that your application is exceptional and therefore do not believe that a 15 year track access contract is justifiable as per the Railways Infrastructure (Access and Management) Regulations and Art.42 of EU Directive 2012/34.

Questions for Alliance:

- How much revenue abstraction does this proposal require to be viable?
- If Alliance was only granted rights for the Cleethorpes services, would this be viable in its own right?
- East Coast notes the ORR's Moderation of Competition – Final Conclusions "*The Regulator acknowledges that competing services that are primarily abstractive of incumbents' revenue without compensating economic benefits – cherry-picking services – are undesirable*". Given that the Leeds <> London King's Cross flow is the second largest flow in terms of revenue in the UK, please explain in full how your proposal to run services between Leeds and London King's Cross does not involve cherry-picking.

For all these reasons, we object to your application.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Phil Dawson', with a horizontal line underneath the name.

Phil Dawson
Regulation & Track Access Manager

cc Rachel Gilliland – Network Rail
Julie Hughes – Network Rail
Brian Hopkinson - ORR