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Dear Maxine and Oliver

## **Track access contract between Network Rail Infrastructure Limited and MTR Crossrail Limited**

The Office of Rail Regulation (ORR) has today approved the terms of the proposed track access contract between Network Rail Infrastructure Limited (Network Rail) and MTR Crossrail Limited, and further directed Network Rail to enter into the proposed track access contract not later than 30 May 2015. The purpose of this letter is to set out the reasons for our direction.

### **Purpose of the supplemental agreement**

The purpose of this agreement is to transfer a proportion of access rights from Greater Anglia to MTR Crossrail. The access rights consist of the bulk of services that currently sit within Greater Anglia's EB01 Service Group, i.e. the 'Great Eastern Inners' - services between Shenfield, Gidea Park and London Liverpool Street. The EB01 services between Romford, Emerson Park, and Upminster will not transfer to MTR Crossrail.

### **Consultation**

Network Rail undertook the usual industry consultation and two queries were raised by Freightliner. The queries and Network Rail's resolution of them are set out, below:

- 05:11 SX Gidea Park to Liverpool Street – This service required a flex to Freightliner's 4M45 MSX Felixtowe to Ditton service. Network Rail's proposal for the 2016 EAS did not reflect the necessary changes to accommodate this. In

response, Network Rail has added a traffic remark to the EAS which specifies the diversionary route to be taken when the line is under possession

- 19:15 Liverpool Street to Shenfield – This service would have been in conflict with Freightliner's 4S83 SX Tilbury to Coatbridge service at Forest Gate Junction. The 19:15 has now been re-scheduled to commence earlier (at 19:14) and so provide a two minute margin at Forest Gate Junction.

## **ORR review**

We reviewed the application and raised a number of queries, these were:

- The original contract included a new Schedule 11, which related to European Traffic Control System (ERTMS) cost recovery. Network Rail could not demonstrate that this approach had been agreed with industry. Furthermore, ERTMS is not planned to be introduced on this route during the period of this TAC. Schedule 11 has been removed from the submitted contract.
- The queries raised by freightliner highlighted a timetable conflict, which we encouraged Network Rail to remedy (see above).
- Schedule 7 of the contract did not include a bespoke fixed track access charge table. This has been added. Consequential amendments have been made to the Greater Anglia's FTAC in its TAC.
- A small number of drafting queries, which have been addressed.
- We note that the relevant rates on the capacity charge list will need to be added, and that this will be achieved by a supplement to the list.

## **ORR's conclusions**

The application does not raise any operational, performance or economic concerns. 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 approval of this 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)).

**Conformed copy of the track access contract**

Under section 72 (5) of the Railways Act 1993, Network Rail is required to send a copy of the access agreement to the Office of Rail Regulation not later than 14 days after the date on which the access agreement is entered into. ORR's copy should be sent for my attention.

**Public register and administration**

In accordance with section 72 of the Act, we will place a copy of the direction notice and the contract on our public register. Copies of this letter, the approval notice and the agreement will be sent to Ray Harris at the Department for Transport. Copies of this letter and the agreement will be placed on the ORR website. I am also copying this letter without enclosures to Madeline Matthews at Network Rail.

Yours sincerely



**John Trippier**