

Our Ref:
Your Ref:

Bill Hammill
Manager, Track Access
Office of Rail Regulation

By email

28 January 2015

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Dear Bill

Application for directions: proposed 27th supplemental agreement to the track access contract between Network Rail Infrastructure Limited and Freightliner Heavy Haul Limited

Thank you for your letter of the 22nd January and the enclosed representation from Network Rail Infrastructure Limited (NR). Here is our formal response to that representation.

We welcome NR's confirmation that there are no specific issues with the rights requested and it is only the quality of the rights that are not agreed and we do welcome Network Rail's decision to approve the eleven rights as listed in the tables on page 2. 6E48 Bardon Hill to Tinsley is not listed anywhere in the Rights Table, so we do not understand the reference to 6E48 in NR's representation.

Commercial Justification for Level 1 Access Rights

The services are already timetabled and running, NR in future timetables has the right to flex paths by +/- 30 minutes, as well as moving pathing and looping time to accommodate the paths. Overall we believe that the +/- 30 minute flex as well as the inbuilt pathing and looping time in freight paths (that do not apply on the same scale to passenger paths), give a reasonable balance of risk and flexibility to both freight operators and NR.

Level 1 versus Level 2 - Capacity and Timetables

It is a much clearer process in removing or transferring Level 1 rights between operators compared to Level 2 rights, which do not have clearly defined slots or paths attached to them. With Level 2 rights there is no balancing of risk.

We do not agree that the granting of Level 1 rights for freight traffic makes it harder to construct future timetables, due to the interaction with passenger services.

Generally freight paths are allowed for in the construction of a passenger timetable and the +/- 30 minute flexing allows a freight path to be moved anytime within a standard hour.

Application of Policy and Principals

Freightliner disagrees that Level 1 rights are "overly-specified" or would "ossify" the timetable. NR has flexing rights of +/- 30 minutes and imposes significant pathing looping time in a freight path and these are "hard-wired" into the rights. We agreed to remove the listing of timed intermediate

points in order to increase NR's ability to flex throughout the route.

There are clear examples where NR and the industry have worked together to deliver significant timetable changes: WCML (Virgin's Very High Frequency Timetable), ECML ("Eureka" timetable) and in Kent, without the need to remove Level 1 rights for freight. Through the use of the flex the parties have negotiated successfully to construct enhanced timetables (primarily benefitting franchised passenger operators) without diminishing freight rights.

This concludes our response and should you seek further clarification on any of the points made please do not hesitate to contact me.

None of this response is commercially confidential and we are happy for it to be published on the website.

Yours sincerely

Chris Wilson

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Freightliner Heavy Haul Limited

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