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Dear Joe and Jonathan

Ninth supplemental agreement to the track access contract between Network Rail Infrastructure Limited (Network Rail) and MTR Corporation Limited (Crossrail)

1. We have today approved the above supplemental agreement submitted to us formally on 18 May 2018 following informal submission to us on 10 April 2018.
2. The agreement introduces additional firm rights for 4 trains per hour (tph) in each direction (Monday to Saturday) and 2tph in each direction on Sunday between London Paddington and Heathrow Airport Junction. This marks the commencement of Crossrail services to Heathrow by transferring rights for paths currently used by Heathrow Connect (and held by First Great Western (FGW) and Heathrow Express Operating Company Limited (HEOC)).
3. The track access contracts currently holding these rights are drafted to automatically surrender the relevant quantum at SCD 2018. In the case of FGW, this is via a footnote in schedule 5, whereas the HEOC contract expires on the same date.
4. Network Rail undertook a 28 day industry consultation between 6 February and 6 March 2018. Five responses were received, with queries being raised by Heathrow Express and GBRf, both of which were later withdrawn following further discussion with Network Rail.



5. We reviewed the application and were generally content with the proposal. We did though note that the Form P described the rights being introduced as 2 tph from FGW and 2tph from Heathrow Connect, with the only additional quantum being 2tph from Hayes and Harlington to Airport Tunnel junction. Our review showed that the agreement also introduced an additional quantum (beyond rights transferring from current TACs) of 5 Saturday services from Paddington all the way through the route to Heathrow.

6. Network Rail confirmed that the SOAR panel had agreed to the sale of rights as specified in the submitted schedule 5, and the Form P was in error.

7. In considering the agreement and 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 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 business with a reasonable degree of assurance (section 4(1)(g)).

8. 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.

9. In accordance with section 72 of the Act, we will place a copy of the approval notice and the agreement on our public register. Copies of this letter, the approval notice and the agreement will be sent to Keith Merritt at the Department for Transport and Peter Craig at Network Rail. Copies of this letter and the agreement will be placed on the ORR website.

Yours sincerely

John Trippier