

Katherine Goulding

Executive, Access and Licensing

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17 December 2015

Craig Tomlin
Customer Manager
Network Rail Infrastructure Ltd
One Eversholt Street
London
NW1 2DN

Neil Sime
Managing Director
Victa Railfreight Limited
Paragon House
Granville Road
Kent
ME14 2BJ

Dear Craig and Neil,

Victa Railfreight Limited: Proposed First Supplemental Agreement

1. On 17 December 2015 the Office of Rail and Road (**ORR**) approved the 1st Supplemental Agreement (**SA**) to the track access contract (**TAC**) between Network Rail Infrastructure Limited (**Network Rail**) and Victa Railfreight Limited (**Victa**) under section 22 of the Railways Act 1993 (**the Act**). The agreement was formally submitted to us on 27 November 2015. This letter sets out the reasons for our decision.

Background

2. The purpose of the 1st SA is to amend Schedule 7 of the existing TAC that Victa has with Network Rail dated 17 April 2015, by replacing paragraphs 2.7.1 and 2.7.2 with paragraphs 2.7.1 and 2.7.2 of the updated November 2015 model freight TAC¹, which addresses an inconsistency with the application of indexation. The 1st SA takes effect from today until the expiry date of the Principal Change Date (**PCD**) 2019.
3. We agreed with the parties before the SA was formally submitted to us that a Form F did not need to be completed, as the only change is to update the existing TAC to reflect the model contract.

Consultation

4. There was no industry consultation for the proposed agreement. We feel this is appropriate in the circumstances of this agreement as the only change to the original agreement, which was consulted on, is the updating of the indexation provisions.

¹ The model freight TAC can be found on our website here: <http://orr.gov.uk/what-and-how-we-regulate/track-access/track-access-process/how-to-apply-for-track-access/access-for-freight-operators>.

ORR Review

5. We received the formal submission of the agreement from Network Rail on 27 November 2015.
6. The updated indexation provisions in paragraphs 2.7.1 and 2.7.2 of the model freight TAC ensure that any new contract entered into after PR13 will have indexation applied on a consistent basis with those contracts amended through PR13. We therefore agree that this agreement should be updated to ensure consistent treatment between the freight operating companies.

ORR Decision

7. This is an application under section 22 of the Act and therefore an agreed agreement between the parties who are prepared to enter into it as submitted. There are no new rights included in the agreement, only an amendment to the existing contract. Therefore we are content to approve this agreement.
8. In making this decision, we are satisfied that this decision reflects our duties under section 4 of the Act, in particular:
 - i. to protect the interests of users of railway assets;
 - ii. to promote the use of railway network in Great Britain for the carriage of passengers and goods and the development of that railway network, to the greatest extent ...economically practicable;
 - iii. to promote efficiency and economy on the part of the persons providing railway services; and
 - iv. to enable persons providing railway services to plan the future of their businesses with a reasonable degree of assurance.
9. Under clause 18.2.4 of the TAC, Network Rail is required to produce a confirmed copy, within 28 days of any amendment being made, and send copies to ORR and Vicia. I look forward to receiving the confirmed copy.
10. In accordance with section 72 of the Act, we will place a copy of the 1st SA on our public register. In entering any provision on the register, ORR is required to have regard to the need to exclude, as far as is practicable, the matters specified in section 71(2)(a) and (b) of the Act. These sections refer to:
 - i. any matter which relates to the affairs of an individual, where publication of that matter would or might, in the opinion of ORR, seriously and prejudicially affect the interests of that individual; and
 - ii. any matter which relates to the affairs of a particular body of persons, whether corporate or incorporate, where publication of that matter would or might, in the opinion of ORR, seriously and prejudicially affect the interests of that body.
11. When submitting the copy of the signed agreement would you therefore identify any matters which you would like ORR to consider redacting before publication.



You will need to give reasons for each request explaining why you consider that publication would seriously and prejudicially affect your interests.

Yours sincerely

A handwritten signature in black ink that reads 'K. Goulding'. The signature is written in a cursive style and is underlined with a single horizontal stroke.

Katherine Goulding