

**Margret Child**

Executive, Access and Licensing

Tel: 020 7282 2056

Email: [margret.child@orr.gsi.gov.uk](mailto:margret.child@orr.gsi.gov.uk)

6 July 2017

Jules Graham  
Customer Relationship Executive  
Network Rail Infrastructure Limited  
One Eversholt Street  
London  
NW1 2DN

Chris Connelly  
Director of Commercial & Business Development GB  
Direct Rail Services Limited  
Regents Court  
Baron Way  
Carlisle  
CA6 4SJ

Dear Jules and Chris,

**Direct Rail Services Limited: Proposed Fifth Supplemental Agreement**

1. On 6 July 2017 the Office of Rail and Road (**ORR**) approved the 5th Supplemental Agreement (**SA**) to the track access contract (**TAC**) between Network Rail Infrastructure Limited (**Network Rail**) and Direct Rail Services Limited (**DRS**) under section 22 of the Railways Act 1993 (**the Act**). The SA was formally submitted to us on 5 July 2017. This letter sets out the reasons for our decision.

**Background**

2. The purpose of the SA is to make changes to Schedule 7 of the TAC to include billing for bi-modal electric multiple units and locomotives.

**Consultation**

3. Network Rail ran an industry consultation from 3 March 2017 to 10 March 2017. This was shorter than the standard period because the amendments had already been widely consulted through an industry working group. No firm rights were sought and no other parties were affected. There were no objections.

**ORR Review**

4. We received an informal submission from the parties on 2 June 2017. We recommended the following changes which were reflected in the formal submission we received 5 July 2017:
  - it was clarified that the Effective Date means when the SA is approved by ORR;
  - drafting changes to Paragraph 3 and the annexes of the SA to make clear what changes were being made to the contract;
  - as confirmed by Network Rail, the wording in Appendix A Paragraph 2.4.1.4 be amended to “..within 14 days of the end of the Sixth Period shall cover Periods four, five and six...”; and
  - “Proposed” was removed from the final versions when referring to the amendments.

## **ORR Decision**

5. This application is under section 22 of the Act and therefore is agreed between the parties, who are prepared to enter into the agreement as submitted. Therefore we are content to approve this agreement.
6. We will incorporate these changes to Schedule 7 into our model freight contract<sup>1</sup> in the near future.
7. 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 improvements in railway service performance;
  - (iii) 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;
  - (iv) to promote efficiency and economy on the part of the persons providing railway services; and
  - (v) to enable persons providing railway services to plan the future of their businesses with a reasonable degree of assurance.
8. Under clause 18.2.4 of the TAC, Network Rail is required to produce a conformed copy, within 28 days of any amendment being made, and send copies to ORR and DRS. I look forward to receiving the conformed copy.
9. In accordance with section 72 of the Act, we will place a copy of the 5<sup>th</sup> SA on our public register.

Yours sincerely



**Margret Child**

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<sup>1</sup> [www.orr.gov.uk/rail/access-to-the-network/track-access/forms-model-contracts-and-general-approvals](http://www.orr.gov.uk/rail/access-to-the-network/track-access/forms-model-contracts-and-general-approvals)