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29 March 2019

Nick Prag
Customer Relationship Manager
Network Rail Infrastructure Limited
151 St Vincent Street
Glasgow
G2 5NW

Sam Price
Head of Contracts
Abellio ScotRail Limited
Atrium Court
50 Waterloo Street
Glasgow
G2 6HQ

Dear Nick and Sam

Approval of the 16th supplemental agreement to the track access contract between Network Rail Infrastructure Limited (Network Rail) and Abellio ScotRail Limited (ScotRail) (jointly, “the parties”)

1. We have today approved the above supplemental agreement submitted to us formally on 29 March 2019 under section 22 of the Railways Act 1993 (the Act). This follows an earlier informal submission of a draft agreement for our consideration. The purpose of this letter is to set out the reasons for our decision.
2. This agreement restructures the service groups in Schedule 5 of the parties' Contract to reflect the changes agreed during the PR18 recalibration process. In particular, service group HA06 has been split to create two new service groups.
3. Further changes made under this agreement include the introduction of additional Contractual Monitoring Points in service group HA01 & HA02 and the redistribution of weightings in service group HA03. This is due to additional services being introduced after the deadline for inclusion in the PR18 recalibration work, and as a result of several errors during this process which were not identified. Following the informal submission, the parties uncovered a further error meaning a Contractual Monitoring Point at Edinburgh was missed that would result in 25 trains not being monitored. The parties proposed to include this with this application to which we agreed. The agreement was subsequently amended to include this.
4. No industry consultation was undertaken as the changes do not have any material impact on any other train or freight operating company.

5. We sought clarification from the parties that there were no further errors in Appendix 1 of Schedule 8 and that their checking system was robust. Network Rail responded illustrating what they had done to assure themselves of this. We were satisfied with the response. Some minor drafting points were raised to the parties and included our suggestions to improve the quality of the draft. These were accepted and the agreement was amended accordingly for the formal submission.

6. In considering the agreement 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 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 businesses with a reasonable degree of assurance (section 4(1)(g)).

7. 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. Please send the conformed copy to me at ORR.

8. Electronic copies of this letter, the approval notice and the agreement will be sent to Keith Merritt at Department for Transport and to Peter Craig at Network Rail. Copies of the approval notice and the agreement will be placed on ORR's public register (website) and copies of this letter and the agreement will be placed on the ORR website. I am also copying this letter without enclosures.

Yours sincerely

A handwritten signature in black ink, appearing to be 'M Albon', written in a cursive style.

Michael Albon