

**Steve Jones**

Executive, Access and Licensing  
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Nigel Oatway  
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Dear Mike and Nigel

**Amendment of a track access contract between Network Rail Infrastructure Limited (Network Rail) and DB Cargo Ltd: Thirty Third Supplemental Agreement.**

1. On 13 August 2020 the Office of Rail and Road (**ORR**) approved the thirty third Supplemental Agreement (SA) to the track access contract (**TAC**) between Network Rail Infrastructure Limited (**Network Rail**) and DB Cargo (UK) Limited (**DBC**) under section 22 of the Railways Act 1993 (**the Act**), submitted to us on 11 August. This letter sets out the reasons for our decision.

**Background**

2. This supplemental as originally submitted contained thirteen additional 24-hour window firm rights and three amendments to 24-hour window firm rights between Daventry, Wembley and Dollands Moor, Kent.
3. The services are routed via one of three paths: either via Maidstone East, Redhill or Orpington. Network Rail explained these services carry important Channel Tunnel Rail Link traffic and alternative routings are historic and were permitted to remain in place when the new TAC was negotiated in 2016.
4. Under Channel Tunnel related treaties, the UK is obliged to maintain a set of 35 rail freight paths per day connecting with the Tunnel, of which a portion is held by DBC and shown in its Rights Table. All overnight versions of these paths as well as daytime ones on Saturdays and Sundays must have at least one alternative route (via Maidstone East or Redhill) to in case of planned and emergency engineering work. The route via Orpington gives additional options used when no W9 loading gauge vehicles are being conveyed.
5. The trains in this proposal have been validated against all other train services in the December 2019 and May 2020 Working Timetables.

**Consultation**

6. Industry consultation took place between 5 May 2020 and 5 June 2020. There are no unresolved issues with this SA.



## **ORR Review**

7. These services will operate on WCML slow lines, so not on any infrastructure currently declared as 'congested'.
8. DBC's track access contract states that in the case of international freight traffic there is a legal requirement to maintain paths via suitable alternative routes in the night hours and weekends. We are satisfied that the treaty obligations mentioned above are sufficient justification for specifying the three particular routings in this supplemental.

## **ORR Decision**

9. This application is under section 22 of the Act and therefore is agreed between the parties and there are no outstanding issues. Therefore, we are content to approve this agreement.
10. 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.
11. 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 DBC. I look forward to receiving the conformed copy.

Yours sincerely

*S Jones*

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