



Gordon Herbert  
Senior Manager, Freight Track Access  
Office of Rail Regulation  
25 Cabot Square  
London  
E14 4QZ

Mike Pybus  
Access Rights Manager  
Network Rail Infrastructure Ltd  
4<sup>th</sup> Floor,  
George Stephenson House  
York  
YO1 6JT

15<sup>th</sup> July 2020

Dear Gordon

**Application for Directions: Proposed 27<sup>th</sup> Supplemental Agreement to the Track Access Contract between Network Rail Infrastructure Limited and DB Cargo (UK) Limited**

I refer to your letter where you invited Network Rail Infrastructure Limited to make written representations in respect of the 27<sup>th</sup> Supplemental Agreement application made by DB Cargo (UK) Limited (“DB Cargo”) under Section 22A of the Railways Act 1993 (the Act). Our representations to the Office of Rail and Road (ORR) follow herewith.

Background

Network Rail recognises that DB Cargo have sought to make this application under Section 22A of the Act after initial discussions with Network Rail with reference to Network Rail’s East Coast Main Line (ECML) industry letter of 27<sup>th</sup> June 2019 and now superseded by the letter of 19<sup>th</sup> June 2020. This led to an understanding that a DB Cargo application for Firm Rights until the end of their contract in 2026 could not be supported.

This application includes requests for the following additional, amended and relinquished Firm Rights, which is summarised below:

**London Gateway – Wakefield Europort**

Additional 24 hour ‘window’ Firm Rights are sought in respect of the following train slots, which have had WTT paths in both the previous May 2019 and December 2019 timetables. The current May 2020 and subsequent December 2020 timetables:

- 4E08 [TThO] 03:41 London Gateway DB Cargo – Wakefield Europort 09:56
- 4E08 [WFO] 03:18 London Gateway DB Cargo – Wakefield Europort 09:56
- 4E08 [SO] 03:34 London Gateway DB Cargo – Wakefield Europort 09:47
  
- 4L08 [FSX] 15:25 Wakefield Europort – London Gateway DB Cargo 23:39
- 4L08 [FO] 15:25 Wakefield Europort – London Gateway DB Cargo 23:38

**Felixstowe – Wakefield Europort**

Additional 24 hour ‘window’ Firm Rights are sought in respect of the following train slots, which have had WTT paths in both the previous May 2019 and December 2019 timetables. The current May 2020 and subsequent December 2020 timetables:

- 4D10 [MO] 06:19 Belmont Down Yard – Wakefield Europort 07:15

DB Cargo are seeking to amend 2x existing one hour ‘window’ Firm Rights for the following train slots, which have had WTT paths in both the previous May 2019 and December 2019 timetables. The current May 2020 and subsequent December 2020 timetables:

- 4E45 [FSX] 22:06 Felixstowe South DBC – Wakefield Europort 05:07 (via GNGE)
- 4E45 [FO] 22:06 Felixstowe South DBC – Wakefield Europort 05:16 (via GNGE)

DB Cargo are seeking to amend 2x existing 24 hour 'window' Firm Rights for the following train slots, which have had WTT paths in both the previous May 2019 and December 2019 timetables. The current May 2020 and subsequent December 2020 timetables:

- 4L45 [MO] 10:04 Wakefield Europort – Felixstowe South DBC 16:34 (via GNGE)
- 4L45 [MSX] 10:04 Wakefield Europort – Felixstowe South DBC 16:34 (via GNGE)

DB Cargo are proposing to relinquish the following existing 24 hour 'window' Firm Rights as part of this 27<sup>th</sup> Supplemental:

- [MO] (00:00 – 24:00) Doncaster Belmont – Felixstowe South EWS (00:00 – 24:00)
- [MSX] (00:00 – 24:00) Wakefield Europort – Felixstowe South EWS (00:00 – 24:00)

### Current Position

Network Rail does not support the application for the Firm Rights listed above. However, Network Rail would be willing to consider supporting an application for Contingent Rights to expire on the last day of the Working Timetable before PCD (that will fall in December) 2021.

This is in line with Network Rail's ECML letter of 19<sup>th</sup> June 2020 and Network Rail will reconsider these, along with any other Rights on the ECML, once the Event Steering Group (ESG) for the ECML reports.

The ECML ESG Programme is in its second phase developing standard hour timetables to provide choices for funders where the capacity cannot accommodate the whole Indicative Train Service Specification (ITSS). DB Cargo, as is the case for all operators, has been a party to and present at the ESG.

The timetable development has sought to include designated freight paths on the ECML. The key intention for these designated freight paths is to accommodate any current freight with Firm Rights. The final freight paths, however, are subject to final detailed development.

- Phase 1 of the ESG Programme identified that the ITSS for London to Peterborough could satisfactorily accommodate the freight specification alongside the passenger specification.
- Phase 2 of the ESG Programme has developed timetable options, but these require a trade-off to freight tonnage (rather than paths per hour).
- At this present time, the ESG is yet to agree a revised Train Service Specification (TSS) and timetable structure to take the Programme into Phase 3.

Another challenging location for timetable validation is Doncaster station. On this basis, it is Network Rail's view that until this work has concluded these Rights should be sold as Contingent Rights as outlined above. In a similar vein, any additional 1 hour, or 24 hour window Rights are to be sold as Contingent Rights in line with the ECML Access Rights policy until we have completed the ECML timetable re-write as this will retain as much flexibility as possible.

The second phase of the ESG Programme concludes in July 2020 and there is an exercise to agree which standard-hour timetable structure to take forward into the third phase. The second phase will identify standard-hour slots for freight to use.

It has always been the view of Network Rail that it would review its ECML position on a case by case basis, so that any Rights affected by the policy could become Firm Rights, if evidence demonstrated it could be so. If evidence can be provided to Network Rail demonstrating that there is theoretical capacity for additional Rights on the ECML then this will be considered on a case by case basis. In this DB Cargo application Network Rail's view and analysis suggests that this application should be supported as outlined above.

Yours sincerely



Mike Pybus

Access Rights Manager  
Network Rail

CC:

Nigel Oatway, DB Cargo

Andy Saunders, Network Rail

Rachel Gilliland, Network Rail

Georgina Collinge, Network Rail