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20<sup>th</sup> August 2020

Dear Gordon,

**Application for Directions: Proposed 11<sup>th</sup> Supplemental Agreement to the Track Access Contract between Network Rail Infrastructure Limited and GB Railfreight Limited**

Thank you for the opportunity to reply to the contents of Network Rail's letters back to ORR, dated 15<sup>th</sup> July 2020 and 14<sup>th</sup> August 2020, on GB Railfreight's proposed 11<sup>th</sup> Supplemental Agreement. Each of Network Rail's letters demands considered response from GB Railfreight (GBRf) and I believe my comments are absolutely pertinent to our application.

**Network Rail letter to ORR – dated 15<sup>th</sup> July 2020:**

Network Rail describes its "Current Position" on firm rights with regard to the East Coast Main Line however its policy has altered so often over the last eight years, it is not credible nor does it appear to be factually based with regard to available capacity. GB Railfreight has seen no evidence that clearly demonstrates these particular firm rights could not be satisfied in 2022 or beyond.

Care needs to be taken when relying heavily on Event Steering Group (ESG) information especially in connection with access rights applications. An ESG Concept Train Plan consists of "aspired to" service levels. ESGs, therefore, look at options that *may* come to fruition (or may not) and for which there is no guarantee to their being the actual workings in any given future timetable. Sufficient funding support or a lack of available units or drivers are just some examples as to why ESG options do not come to pass.

The outputs of ESG Concept Train Plans are guides to what might be possible, and not absolutes, especially in something as vitally important to freight operators as requiring firm rights for their traffics which are actually running.

The East Coast Main Line ESG work is continuing onwards, with some new Phase 3 work and also now a Phase 4 workstream planned to start. This may well take some time. Meanwhile, GB Railfreight's business is expanding, as it continues to adapt with new traffic opportunities such as these additional Intermodal container services between Teesport and Doncaster i-Port, running over the relatively recently W10 gauge-cleared ECML most of the way. Not being permitted to run over a route that has specifically been enhanced to accommodate such traffic is counter-intuitive.



Crucial to GBRf's business success is the ability to secure reliable access to the Network, with firm rights, so that it can plan the future of its business with a reasonable degree of certainty and assurance. The approval of firm rights also helps secure the efficiencies of this new container service as one set of wagons works two round trips between Teesport and Doncaster i-Port each day. It is that real efficiency that GBRf wishes to protect as it is unusual for this level of productivity to be attained for an Intermodal service.

The two round trips/day, along with the Saturday working, take 1,232 lorries off the roads each week, which is the equivalent of almost 63,000 lorries off the roads per year. With carbon "net zero" now a Government legal obligation, GB Railfreight believes there is a very strong case for securing firm rights for this type of economical and environmentally conscious method of transporting containers.

The Department for Transport and Network Rail have now stated that any ECML timetable change is now not taking place until May 2022 at the earliest. This timing certainly needs to be taken into account when considering GBRf's application.

Finally, in this letter, GB Railfreight cannot understand why Network Rail requires GBRf to provide evidence that theoretical capacity exists on the ECML for these services. It should be for Network Rail to categorically demonstrate that there is insufficient capacity for these services from 2022 onwards. There is, obviously, capacity in the timetable to satisfy these firm rights and all the paths are offered in the current May 2020 timetable and the December 2020 timetable.

## **Network Rail letter to ORR – dated 14<sup>th</sup> August 2020:**

GB Railfreight recognises the description of Phase 2 of the ECML Event Steering Group (ESG) and has already stated that there are to be Phases 3 and 4 of optioneering both passenger and freight to see what may be possible. Therefore, the "*chosen timetable option PRA Option 2 for further development*", as mentioned in this letter, could see all manner of alterations for freight and passenger options over future months.

This will take some time and other Concept Train Plans will be developed as this work continues. It is ever-moving and cannot be a reason for preventing contractual "business as usual" activities for operators whose survival depends on it gaining firm access rights in a timely manner. This is not least as there is no real evidence that the requested firm rights, with 60 minute arrival and departure windows in each case, cannot be accommodated.

With regard to the Network Rail's note on a conflict of the 4N06 right with some Section 5 cyclic possession opportunities, this has no bearing on our firm access rights application. Firm rights are sold on the condition that they do not interfere with booked Standard Possession Opportunities and hold no sway in whether or not the desired possessions are entered into the Engineering Access Statement. In any case, conversations are progressing in finding a bespoke solution.



GB Railfreight notes that Network Rail has now been able to support firm access rights for 4D06 [SX] and 4D15 [EWD], a sudden change to its previous stance. Given this change, and the full lack of reasoning and detail for each of these firm rights, GB Railfreight believes that a similar outcome might actually apply to the other firm rights in question.

As far as GB Railfreight can now tell, Network Rail is now stating that it will not support firm rights for 4N06 [EWD], 4D08 [SX], 4D08 [SO], 4N08 [SX] and 4D12 [SO] because of uncertainty in final timetable within Doncaster station limits.

Which final timetable is this actually for?

There is certainly room for the corresponding train slots in the current May '20 and December '20 timetables. The Doncaster station area is a major hub for freight movements, currently with 81 freight trains (including GBRf's in this application) in the timetable between 06:00 and 22:00 each day and many with 120 minutes of flex in their rights. GB Railfreight, therefore, does not find Network Rail's argument credible.

This is especially so as TOCs' firm rights have an even greater 24-hour window of flex. Given that TOC journey times, for example, are not contractualised GBRf believes there is plenty of contractual flexing that can take place to accommodate all necessary train slots.

In summary, GB Railfreight believes that Network Rail has not offered any credible reasoning for not supporting GBRf's firm access rights application.

Yours sincerely,



**Ian Kapur.**  
**Head of Strategic Access Planning.**

