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23 November 2020

Laura Mason
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Network Rail Infrastructure Ltd
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Scott Turner
Track Access Specialist
XC Trains Ltd
Cannon House
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Birmingham
B4 6BS

Dear Laura and Scott

Approval of the 13th supplemental agreement to the track access contract between Network Rail Infrastructure Limited and XC Trains Limited dated 8 August 2017

We have today approved the above supplemental agreement submitted to us formally on 23 November 2020 under section 22 of the Railways Act 1993 (the Act). This follows an earlier informal submission of a draft agreement for our consideration. This letter explains the reasons for our decision.

Purpose

The purpose of this agreement is to grant XC Trains Ltd the rights to run an additional service between Leeds and Birmingham to partially replace withdrawn East Midlands Railway services on the route. It also removes one service between Edinburgh and Dunbar, which will now be operated by Abellio ScotRail, and one service between Sheffield and Birmingham. The rights are to commence on the Subsidiary Change Date 2021 and will expire on the Expiry Date or earlier termination of XC Trains Ltd's track access contract, with the exception of the additional Leeds – Birmingham service, which will expire on the Principal Change Date 2021.



Industry consultation

Network Rail undertook the usual industry consultation. Comments in support were received from Transport Focus, NEXUS, West Yorkshire Combined Authority, and First Greater Western. No objections or issues were raised.

ORR review

Our review of the application raised no operational, performance or economic concerns. We identified some drafting issues which required resolution before the agreement was formally submitted, which have now been incorporated into the final signed agreement.

Our duties under section 4 of the Act and our decision

We have concluded that approval of this supplemental agreement strikes the appropriate balance in discharging our statutory duties under section 4 of the Act; 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)).

Conformed copy of the track access agreement

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.

Public register and administration

Electronic copies of this letter, the approval notice and the agreement will be sent to Keith Merritt at Department for Transport. 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 to Peter Craig at Network Rail.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Louise Beilby', with a stylized flourish at the end.

Louise Beilby