

APPLICATION TO THE OFFICE OF RAIL AND ROAD FOR A PASSENGER TRACK ACCESS AGREEMENT, OR AMENDMENT TO A PASSENGER TRACK ACCESS AGREEMENT UNDER SECTIONS 17-22A OF THE RAILWAYS ACT 1993

1. Introduction

Please use this form to apply to the Office of Rail and Road (ORR) for:

- directions under section 17 of the Railways Act 1993 for a new track access contract. Section 17 allows companies who want the right to use a railway facility (including Network Rail's network) to apply to ORR for access if they are not able (for whatever reason) to reach agreement with the facility owner.
- approval under section 18 of the Railways Act 1993 for a new track access contract. Section 18 allows companies to apply for approval if they have agreed terms with the facility owner.
- approval of a proposed amendment (agreed by both parties) under section 22 of the Railways Act 1993 to an existing track access contract.
- directions under section 22A of the Railways Act 1993 for an amendment to an existing track access contract. Section 22A allows anyone seeking an amendment to an existing track access contract which allows the operation of more extensive services to apply for a compulsory amendment if they are not able (for whatever reason) to reach agreement with the facility owner.

If it is the facility owner, Network Rail will carry out a pre-application consultation. In this case fill in this form up to section 7.3. You should fill in the rest of the form after the consultation and before applying to ORR. If you are unhappy with the facility owner carrying out the consultation, you should ask ORR to do so. If this is the case, you should complete this form in full before submitting it to us.

The form sets out ORR's standard information requirements for considering applications. It cross-refers throughout to our [criteria and procedures](#) (C&Ps). The C&Ps explain the process, timings and the issues we will expect to consider. You should use the published [model passenger track access contract](#) as your starting point when drafting the contract or amendments you want. Please read the C&Ps and the Code of Practice before applying.

We are happy to talk to you before you apply. Please contact us [here](#).

You can download a copy of this form, and of ORR's model track access contract, from the ORR website: www.orr.gov.uk

2. The application

2.1 Title of proposed contract or supplemental agreement (please also include the section of the Railways Act 1993 under which you are applying):

Grand Union Trains Wales

2.2 Contact details (Company and named individual for queries):

<u>Facility Owner</u>	<u>Beneficiary</u>
Company: Network Rail	Company: Grand Union Trains Wales
Contact individual:	Contact individual: Ian Yeowart
Job title:	Job title: Managing Director
Address:	Address: C/O: 3 Llys Cadwyn, Taff Street, Pontypridd, Rhondda Cynon Taf, CF37 4TH
Telephone number:	Telephone number: [Redacted]
Fax number:	Fax number:
E-mail address:	E-mail address: [Redacted]

2.3 Licence and railway safety certificate: please state whether you intend to operate the services yourself or have them operated on your behalf.

Does the proposed operator of the services (a) hold a valid train operating licence under section 8 of the Railways Act 1993 or an exemption under section 7, **and** (b) hold a valid safety certificate under the Railways and Other Guided Transport Systems (Safety) Regulations 2006. If the answer to (a) **or** (b) is no, please state the point reached in obtaining a licence, exemption and/or safety certificate.

C&Ps paras 3.9-3.15

Grand Union does not currently hold a valid train operating licence or safety certificate but will be working towards both during the application process.

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3. The proposed contract or amendment

3.1 Executive summary: please provide an executive summary of the proposed contract or amendment. This should cover the services, the commercial terms, and the reasons for making the application in the terms proposed. This information should be laid out clearly and concisely, and fully highlight the changes from the previous version of the contract (in the case of an amendment). **C&Ps para 3.22-3.28**

Please also explain any important safety risks that have been identified arising from the proposal and how these will be controlled (by reference to the facility owner's safety authorisation and the train operator's safety certificate). **C&Ps paras 4.9-4.11**

Please also state the commencement and end dates for the proposal, and for new agreements or extensions to existing agreements, provide justification for the proposed length of the application, with reference to the [Railways Infrastructure \(Access and Management\) Regulations 2005](#). If you are a franchised operator, please state the expiry date of your franchise. **C&Ps paras 4.72-4.79**

Following a series of recent discussions with the Welsh Government, TfW and others, Grand Union has submitted this application for 4 return services a day to operate between Carmarthen and London Paddington with calls at Llanelli, Swansea, Cardiff, Newport, Severn Tunnel Junction and Bristol Parkway. These services are of significant importance to the Welsh Government and are planned to begin between Cardiff and London Paddington in May 2022, then extending to Carmarthen in May 2024. Services will call at an upgraded Severn Tunnel Junction [Parkway] and the new and privately funded Cardiff Parkway station. Both are identified within the South East Wales Transport Commission Report [The Burns Report], with Cardiff Parkway being one of a number of new stations recommended and planned by the Welsh Government for the South Wales Main Line and for which planning permission is being sought. Services to Carmarthen will be operated by new build Hitachi bi-mode trains which are planned to replace the initial electric traction.

The application sits squarely at the centre of the UK Government's levelling up agenda as outlined in the interim report of Sir Peter Hendy's Union Connectivity Review by boosting the transport options connecting the UK, with focus on providing high-quality transport infrastructure to communities that have been passed over for investment in previous decades. It is also aligned with Prime Minister Boris Johnson's vision to build back better from coronavirus by boosting transport connectivity across and between the whole of the UK, as part of ambitions to truly level up across the country.

Services between Cardiff and London Paddington will be operated by Class 91 locomotives and Mark 4 coaches. This will ensure that Grand Union is able to be part of the important rail recovery process as the UK builds back better in the coming years, providing a vital improvement in Union Connectivity to many parts of South East and West Wales currently poorly served by fast and direct links to London. Private investment and innovation will be critical in ensuring the railway comes back stronger following

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its period of enforced slowdown, and this application shows private sector confidence in the railway's resurgence.

Grand Union is also looking at the various technologies that can be installed on trains to inspire further passenger confidence. In particular, the use of UV in air conditioning systems is being rolled out by a number of operators across Europe and elsewhere to reduce viral and bacterial risks and is an issue that Grand Union is discussing with providers and stakeholders.

As well as the service introduction, alongside others, Grand Union will be investing in infrastructure improvements at Severn Tunnel Junction Station to increase parking, give direct access from the adjacent M4 motorway and improve passenger and staff facilities to a standard appropriate for use by Intercity trains.

Operation of this service will attract the new Infrastructure Cost Charge introduced by the ORR for PR18 and represents a significant increase in track access revenue for Network Rail, a charge not paid by franchised/concession operators. This charge was introduced in line with the expectations of the Secretary of State for Transport who stated *that a precondition for an increase in Open Access is that all operators make a fair contribution to the costs of the network*. On a path-by-path basis, track access charges for Grand Union on this route will exceed those paid by the current intercity operator.

Grand Union is requesting a 12 year track access contract to reflect the planned investment in the infrastructure and its new build train fleet.

Date of commencement: May 2022

End date: May 2034

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3.2 Terms not agreed with the facility owner (for applications under sections 17 or 22A only): please set out here any areas of the application which have *not* been agreed, the reasons for the failure to agree and the reasons for seeking these provisions. **C&Ps para 3.102**

Grand Union has engaged in detail with Network Rail for over 15 months on the development of its timetable. This has culminated in a series of reports that confirm that 6 path pairs are fully compliant and that services would be able to be accommodated at the various stations on the route, including the terminus stations. Modelled performance impacts for 6 path pairs were also found to be in line with previous access approvals made by Network Rail and the ORR and are significantly lower than the forecast performance impacts of -6.9% by the introduction of 'Elizabeth Line' services. Grand Union is included in the Concept Train Plans being developed for the Great Western and Wales routes.

Despite that detailed work and its positive output, Network Rail does not support this application for 4 fully compliant return paths, (a lesser number of paths than the 6 that have been fully developed) as outlined in the application and the contract. By contrast Network Rail has supported further services to be introduced by others on the route.

3.3 Departures from ORR's model passenger track access contract: please set out and explain here any:

- areas where the drafting of the application changes ORR's published template passenger track access contract (as appropriate, cross-referencing to the answers below). Please also explain why these departures have been made. **C&Ps paras 2.34-2.37**
- instances where the proposal departs from the charging and/or performance regimes established by ORR's latest periodic review (or subsequent interim reviews) as reflected in ORR's model passenger track access contract, including the financial implications (e.g. establishment of an access charge supplement or rebate). **C&Ps paras 5.1-5.44**
- new processes (e.g. a self-modification provision) which have been added. Please also demonstrate fully how this new process is robust and complete. **C&Ps paras 6.2-6.3**

Grand Union is an open access passenger operator and is not expecting to change the model passenger (open access) contract.

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4. The expression of access rights and the use of capacity

4.1 Benefits: please set out what specific benefits the proposal will achieve, including a justification for requiring the rights and their characteristics. Please provide full descriptions of any new rights required, as compared to the previous contract (in the case of an amendment). Please also describe any significant changes in the pattern of services, their benefits to passengers and any impact on other operators, including freight operators. Where appropriate, please provide a fully marked-up version or document comparison of any tables in Schedule 5 which are being modified as a result of this application. **C&Ps paras 4.26-4.35**

The application has been developed and agreed with colleagues at the Welsh Government and Transport for Wales (TfW). It also has the support of many MPs, members of the Senedd and businesses and communities in South East and West Wales. The thrust of the application is to improve services for important parts of South East and West Wales by providing more regular through services to London from Carmarthen, Llanelli, Severn Tunnel Junction and Cardiff Parkway (once built), while also significantly improving the passenger experience overall by not calling trains at the various Thames Valley stations of Swindon, Didcot and Reading. This will go some way in compensating for the Welsh Government's estimated loss to Wales of £700m by the DfT decision not to electrify the route west of Cardiff, while at the same time helping the economy recover more quickly from the pandemic as recently outlined by the Chancellor and is in line with Prime Minister Boris Johnson's vision to build back better from coronavirus by boosting transport connectivity across and between the whole of the UK, as part of ambitions to truly level up across the country.

In addition, the introduction of the first competitive train services on the Great Western Route, (operated for the entire 25 years since privatisation by First Group), will see pressure on prices, a position seen as a benefit by First Group in its own East Coast Trains open access application but now seen as a disbenefit by First Group in a number of its earlier consultation response.

Since the Great Western Main Line (GWML) was privatised 25 years ago, there has been no on-track competition on the long-distance parts of the route with only one competition 'for the market' some 16 years ago. First Group has been the monopoly supplier of fast travel to London for a quarter of a century.

In a recent speech to the rail industry, Keith Williams, Independent Chair of the Government Rail Review said creative thinking was now critically needed around how the private sector could be incentivised to expand the industry's revenue base, pointing out that airlines had been defined by more competition and greater emphasis on customer engagement following previous significant major setbacks for the sector such as the 2001 9/11 terrorist attacks and the Icelandic volcanic eruption in 2010.

Apart from token additional services in the peak, South East and West Wales has not seen an increase in the frequency of its regular train service to/from London with the recent Great Western infrastructure

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upgrade despite the expectation of the Welsh Government, and it being included in both the Western and Wales Network Rail Route Studies. Carmarthen and Llanelli have only a token through service to London with timings dictated by the use of marginal capacity in First Group resources, and Severn Tunnel Junction has no through services. At the same time Bristol is seeing its London service frequency increase by almost 100% to 4 an hour to/from Bristol Temple Meads.

In its Access Policy final conclusions, the ORR has stated [2.29]: *“It is important to note that our approval of those open access services which we forecast would have generation to abstraction ratios greater than 0.3 to 1 have resulted in significant benefits to passengers. In many cases, they have led to high passenger volume growth in areas previously poorly served by direct trains to London. Other benefits have included lower fares and some service innovations. All this has led to high passenger satisfaction figures for open access operators”*. On this application the ratio is significantly in excess of 0.3 to 1 and we will be serving areas currently poorly served by direct trains to London.

The ORR further stated [2.32]: *“For these reasons, we continue to believe that using a threshold ratio for the entire service of 0.3 to 1 will best balance our duties to promote competition for the benefit of passengers and to have regard to the funds available to the Secretary of State”*

Grand Union is proposing to introduce a limited number of 4 return fast through services between Carmarthen and London, calling at Llanelli, Swansea, Cardiff, Newport, Severn Tunnel Junction and Bristol Parkway. Services will also call at Cardiff Parkway when it is opened. This privately funded station is currently in the planning process with timings being developed by Network Rail.

Initially services will operate between Cardiff and London, using Class 91 and Mark 4 sets from the East Coast Main Line (ECML), to help develop the service through the UK recovery period, and to promote the use of the upgraded and important parkway station at Severn Tunnel Junction. This station will provide direct access off the M4 motorway for a significant catchment of this area of South Wales and is an important part of the South East Wales Transport Commission’s findings in helping to ease road congestion in this busy corridor.

In correspondence with the ORR, Ken Skates, Minister of Economy and Transport for the Welsh Government stated: *“I have recently set out our aspirations to increase connectivity and service provision on the South Wales Main Line. The provision of additional high quality long distance services connecting South Wales with London fit with both these aspirations, and those set out in the South East Wales Transport Commission’s Final Report. The Grand Union Trains services would also support the aspirations of the current “Union Connectivity Review” being led by Sir Peter Hendy”*.

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This initial service will then be extended to Swansea, Llanelli and Carmarthen. These services are planned to be operated by new build Hitachi Class 802 trains in up to 9 car formation, which will also have space for light freight, a fixed buffet between the classes, on-board catering facilities and improved seating, lighting, legroom and luggage space.

There are now 44 open access services approved on the ECML to English destinations, and the ORR has previously noted that: *"..those open access services which we forecast would have generation to abstraction ratios greater than 0.3 to 1 have resulted in significant benefits to passengers. In many cases, they have led to high passenger volume growth in areas previously poorly served by direct trains to London. Other benefits have included lower fares and some service innovations. All this has led to high passenger satisfaction figures for open access operators"*.

The ORR also commented that: *"For these reasons, we continue to believe that using a threshold ratio for the entire service of 0.3 to 1 will best balance our duties to promote competition for the benefit of passengers and to have regard to the funds available to the Secretary of State. As explained earlier, our experience suggests that ratios above this level will generally result in economic net benefits"*.

The ORR has noted that the NPA ratio for 6 return open access services between Carmarthen and London Paddington would be 0.45, well in excess of the 0.3 threshold. With a reduced number of 4 return services that ratio improves to 0.69 resulting in significant further economic benefits. These figures do not yet include the further generation that will accrue by the opening of Cardiff Parkway.

The Grand Union proposal is designed to offer passengers to and from South East and West Wales extra and new direct services and also give them a choice of operator for the first time in 25 years. There will also be significant further benefits, not least lower fares. This was a significant reason in the ORR approval of the First Group open access service from London King's Cross to Edinburgh.

Lower fares are proven to drive growth, an undeniable fact already seen in South Wales when First Group challenged Arriva Trains Wales with a reduced operator specific fare between Swansea and Cardiff. What followed was a massive upsurge in passenger numbers, which underpins recent Transport Focus research, where a panel group were asked what would make them more likely to travel by train? 85% (the top ranked response) stated *"if fares were cheaper"*. This is a clear example of the power of competition 'in the market', and the significant benefit for passengers, taxpayers and the environment that competition brings.

The Chancellor recently stated in his budget speech on 3 March 2021 that the economy will recover more quickly from the pandemic than previously thought, with the economy returning to its pre-

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pandemic size six months earlier, by the middle of next year. This would coincide with Grand Union's arrival to the Network, helping to drive that recovery.

The lack of competition on the route is evidenced by the large growth in road coach services, where there are over 30 services a day (each way) between Cardiff and London (under normal conditions), far greater than the number of coach journeys seen elsewhere for journeys of this nature. It is also instructive that the advent of on-rail competition following the introduction of Chiltern's Oxford services on the Oxford - London corridor has seen coach competition fall dramatically.

With road travel from South East and South West Wales to England having to contend with the very congested M4 corridor, and air travel non-existent, First Group has been a monopoly supplier of fast travel to London for too long, and this can be seen in the pricing structure in place and its unwillingness to develop this part of the UK. First Group's rail services between London and South East and South West Wales have also been downgraded over time with the addition of more and regular stops in the Thames Valley, meaning much longer journey times and significant passenger churn on the train detracting from the long-distance passengers' experience.

Grand Union will introduce that competition, driving growth and usage as identified by the ORR in its Access Policy backed up by evidence of what has actually happened in the market. It will also provide direct services to the significant catchment markets at Carmarthen, Llanelli and Severn Tunnel Junction and will be an active participant once Cardiff Parkway is completed.

As well as competition on prices, the on-train environment will be improved with better seating, better lighting, more legroom, more luggage space, a fixed buffet/kitchen between classes and space for cycles. In the initial phase the DVT of the train will also convey 'vanload' freight between stations, a developing initiative with colleagues at Intercity Rail Freight. This is a growing and significant market with a number of potential operators looking more closely at 'express parcels', and the retention of parcels space is also planned in the replacement rolling stock.

Uniquely among intercity operators, Grand Union regards a seat as part of the price paid for the ticket, so if we are unable to provide a seat then standing passengers will receive a 50% refund or only pay 50% of the fare for that journey. The plans are that our empowered on-board team would deal with this issue at source. This initiative is to reflect our commitment to passengers and to acknowledge as quickly as we can when things go wrong. If these services are approved, we will further discuss with stakeholders and our people other initiatives that will enable us to address passenger issues in a much quicker way than now.

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Passengers will also not be penalised for purchasing tickets on train, and passengers will be able to access the entire suite of ticket buying options. Discussions have been on-going for some time with ACT (A Fujitsu Company) based in Cardiff in looking at future easy ticket purchasing options for both individuals and companies. Our intention is to address the full market need from those who want the security of the paper ticket and the comfort of buying one physically, to those happy with the continued march of technology. Innovation and trialling within the market are things that smaller, unconstrained operators do particularly well.

This service will also start to reign in the disparity between Cardiff and Bristol on this vitally important route for the benefit of the South and West Wales economy and the UK as a whole.

Grand Union will base its operation in South Wales and is proposing to have its trains maintained there, helping to boost the local economy and contribute to the 'levelling up' process. Grand Union is looking to be able to utilise downtime on depots by having its trains maintained during the day, rather than at night, so offering significant work for the chosen train maintainer at times of low use and making more efficient use of capital equipment. With the arrival of new build Hitachi 802s, maintenance will also remain in South Wales, and discussions have taken place and continue with the potential maintenance providers.

Over 100 new and permanent full-time posts will be created by Grand Union with the operation of this new service, the vast majority of them located in South Wales. This will also bring further benefits to the local supply chain, in terms of maintenance, servicing and provision of catering supplies and support.

4.2 Adequacy: please set out how you have satisfied yourself that there is enough network capacity for the services in the proposal. Please also set out whether there are any implications for overall network performance and the facility owner's maintenance and renewal activities. **C&Ps paras 4.12-4.45**

Grand Union has undertaken a detailed evaluation alongside Network Rail to prove that the necessary capacity exists. Modelled impact on performance for 6 train pairs was in line with that previously accepted by the ORR, Network Rail and GWR. With this application now seeking capacity for only 4 return paths as opposed to the 6 compliant paths developed, then modelled performance impacts will be further reduced.

Grand Union does not envisage operating at times that will impinge on the facility owner's time for maintenance and renewal activity.

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4.3 Flexing rights: please provide a general description of the extent of any limitations on the facility owner's flexing rights in the proposal. Please provide the rationale for the extent of any limitation on the flex provided, including any changes to pre-existing services, and the extent to which the provisions have been agreed with the facility owner. **C&Ps paras 2.27-2.33**

N/A

4.4 Journey time protection: please describe whether the proposed contract gives journey time protection to any services (by establishing maximum journey times, fastest key journey times or maximum key journey times), and explain the reasons for this, with reference to ORR's criteria. **C&Ps paras 8.90-8.103**

N/A

4.5 Specified equipment: please give full details of any changes to specified equipment (rolling stock), including timescales, and how much of the vehicle and route acceptance procedure in the Network Code (Part F) has been completed. Please explain whether you have, or will have, the rolling stock necessary to exercise the rights being sought. **C&Ps paras 8.87-8.90**

Grand Union will initially be using Class 91 locomotives, Mark 4 coaches and a Driving Van Trailer on each of its trains for the Cardiff service. The rolling stock has significant space to carry cycles and light express freight and the provision of this facility is an important part of the overall offer. The trains are available for a service start in May 2022.

The extended service to Swansea, Llanelli and Carmarthen will be provided by new build Hitachi Class 802s. These trains will have a Grand Union specified interior offering more legroom and luggage space with improved seating and lighting. Trains will also have a fixed buffet/kitchen serving both classes of passengers and will also have space to carry cycles and light/urgent freight.

4.6 Franchise obligations: please explain whether the proposed services are necessary to fulfil obligations under a franchise or concession agreement. **C&Ps paras 4.3-4.4**

N/A

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4.7 Public funding: please state whether (and if so to what extent) the proposed services are subject to financial support from central or local government (other than the Department for Transport or Transport Scotland), including Passenger Transport Executives. Please also provide a point of contact at that body. **C&Ps paras 3.52, 4.25, 4.35-4.39**

N/A

4.8 Passenger Focus and, where applicable, London TravelWatch: please state whether (and if so to what extent) the proposed services have been discussed with these bodies. Please also provide copies of any relevant correspondence. **C&Ps para 4.39**

Earlier discussions on a larger application have taken place with Transport Focus, which has a presumption in favour of competition. One of its concerns was how Grand Union would fit into the timetable, and those issues have been fully addressed. Transport Focus will be consulted on this reduced application.

4.9 Route utilisation strategies (RUSs): if applicable, please state which RUSs (including the Freight RUS) are considered relevant to this application and whether the proposed rights are consistent with that RUS. If the proposed rights are not consistent, please explain the reasons for this. **C&Ps paras 4.5-4.8**

The Western and Wales Route studies are most relevant, with both showing the expectation of up to 4 trains an hour between Cardiff and London Paddington. This application is for an initial small number of services to begin moving towards that aspiration.

The rights proposed are consistent with the contents of the Western Route Study, the Welsh Route Study, the output from the Long Distance Market Study, and the benefits outlined in the Network Rail Wales and Western 2020 Business Plan.

They are also in line with the UK's levelling up agenda and directly support the aims of the Union Connectivity review.

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5. Incentives

5.1 Train operator performance: please describe any planned projects associated with the operation of the proposed services aimed at improving your performance. **C&Ps paras 4.26-4.36**

The Class 91 is a reliable electric train and has seen significant investment in reliability modifications during its time in operation on the ECML. Grand Union is also discussing with Eversholt Rail further improvements, e.g. on-train condition monitoring and installation of UV into air conditioning systems. The vehicles are fully PRM compliant.

Grand Union will have a sufficient fleet for its initial operation, so enabling step up/step down of sets in the event of perturbation or failure.

5.2 Facility owner performance: please describe any planned projects associated with the operation of the proposed services aimed at improving the facility owner's own performance. **C&Ps paras 4.26-4.36, 5.1**

Grand Union is in ongoing discussions with the Welsh Government, TfW and others regarding the improvement and changes planned in facilities at Severn Tunnel Junction.

5.3 Monitoring of services: would all proposed services be monitored for performance throughout their journeys, consistent with our policy in paragraph 5.50 of the criteria and procedures? If not, please state the reasons for this is in line with the permissible circumstances described in paragraph 5.51 of the criteria and procedures. **C&Ps paras 5.50-5.56**

All services will be monitored. We will be aiming for high performance in line with our wider values so we plan to monitor performance of both our trains and the wider route, which will help deliver better performance for all operators. As a small operator, we intend to create a complete team that links between drivers, on train staff and the controller/performance managers as we look to develop a good understanding of any delays and manage the appropriate actions. We believe that this will benefit not just our train services, but the wider network.

Discussions with colleagues at TfW have been positive and productive and will ensure that this very Welsh focused intercity service plays its important role in assisting with the economic recovery, the levelling up agenda and Union Connectivity. These areas have been highlighted by the Welsh Government in its continued support for the introduction of this important service and by members of the Senedd along with a number of UK MPs. The application is also aligned with Prime Minister Boris Johnson's vision to build back better from coronavirus by boosting transport connectivity across and between the whole of the UK, as part of ambitions to truly level up across the country.

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5.4 Performance regime changes (for applications under sections 17 or 22A only): where applicable, please provide justification for any changes to Schedule 8 of the track access contract in the proposal. If necessary, please provide any relevant information in support of the changes proposed. **C&Ps para 5.38-5.40**

N/A

6. Enhancement

6.1 Enhancement details: where the proposal provides for the delivery of any network enhancements, or the services in the proposal are subject to any planned network enhancements, please give full details of the relevant enhancement schemes, including a summary of outputs from the scheme, timescales and the extent to which the network change procedure in the Network Code (Part G) has been completed (where appropriate, by reference to submissions made under ORR's enhancement reporting framework). **C&Ps paras 4.80**

The electrification of the route is complete, and Grand Union's trains will make use of the improved infrastructure, which will also improve the initial Business Case for its investment.

Planned enhancement schemes at Severn Tunnel Junction are part of an ongoing discussion with the Welsh Government, TfW and others.

6.2 Enhancement charges: please confirm that the arrangements for the funding of any network enhancements are consistent with ORR's [Policy Framework for Investments](#), and summarise the level and duration of payments, and the assumed rate of return (see chapter 3 of the Conclusions document). **C&Ps paras 5.6, 5.12-5.14**

Any funding for enhancements will be in line with the ORR's Policy Framework.

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7. Other

7.1 Associated applications to ORR: please state whether this application is being made in parallel with, or relates to, any other current or forthcoming application to ORR (e.g. in respect of track, station or light maintenance depot access contracts). **C&Ps paras 3.18-3.19**

Grand Union will be making further applications in relation to station and depot access.

7.2 Supporting information, side letters and collateral agreements: please:

- state here any relevant information in support of the proposal, including a list and explanation of any other material being submitted (and supply copies with the application). **C&Ps para 4.33**
- confirm here that the whole of the proposal between the parties has been submitted with this application and that there are no side letters or other documents which affect it. **C&Ps paras 6.12-6.16, 6.21**

The Welsh Government is fully supportive of this application and has provided confirmation of that support in public and in correspondence to the ORR. In a recent letter to the ORR, the Welsh Government Minister for the Economy and Transport stated: *"I have recently set out our aspirations to increase connectivity and service provision on the South Wales Main Line. The provision of additional high quality, long distance services connecting South Wales with London fit with both these aspirations, and those set out in the South East Wales Transport Commission's Final Report. The Grand Union Trains services would also support the aspirations of the current "Union Connectivity Review" being led by Sir Peter Hendy"*.

7.3 Confidentiality exclusions: please list any parts of your application which you have excluded on the grounds of confidentiality, from the version of the proposed contract sent to consultees for any pre-application consultation process, and provide reasons. If there has been no pre-application consultation, you should state any parts of the application and proposed contract you want us to exclude from publication. **C&Ps paras 3.29-3.34**

None

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Note: Where a pre-application consultation is to be undertaken in line with the Code of Practice, the remainder of this application should not be completed until after that consultation has been completed

8. Pre-application consultation

8.1 The consultation: has a pre-application consultation been carried out in line with the Code of Practice? If yes, please:

- state who conducted the consultation;
- list all train operators, franchising authorities and any other parties that were consulted, stating which parties responded and attach their responses and any associated documentation to this form; and
- state the period allowed for the consultation. If this was less than 28 days, please explain the reasons for this.

If a pre-application consultation has not been carried out, please explain the reasons and whether any informal discussions have been held with any third parties who might be affected by this application and the nature of any concerns which they raised. **C&Ps paras 3.62**

Network Rail will undertake the pre-application consultation.

8.2 Resolved issues: please set out any issues raised by consultees which have been satisfactorily resolved. You may wish to refer to responses attached to this form. Please explain any changes as a result of the consultation.

In an earlier application for more services on the route than are sought here, the consultations also included the Economic Equilibrium test and a number of consultees responded to both.

The main areas of objection revolved around the introduction of competition and the unfounded view that there was no capacity to operate any additional services and that trains could not be accommodated at Paddington. This was particularly so in the responses from Network Rail, First Group and the DfT.

It is extremely disappointing that Network Rail was unable to identify the available capacity on its own network, and as a result Grand Union had to invest significant time and expertise in making Network Rail understand its own position. Part of Network Rail's license requirements is that it understands the

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capacity it has on its network and that the information is available, particularly to new entrants. It should not be for an applicant currently outside the industry to prove to the Infrastructure Manager the available capacity it has on its own network. The paths sought have been identified with Network Rail, developed with Network Rail and found to be conflict free. It remains of concern that Network Rail continues to discriminate by not agreeing to sell capacity while agreeing to sell capacity to others.

First Group (via its GWR franchise) stated that the only way to fit Grand Union's services into the timetable would be for GWR to remove a number of its key services. This issue has been fully addressed and the services sought have been through a detailed evaluation, with 6 return paths being fully compliant alongside the current timetable, including access to Paddington.

The performance of those 6 pairs of paths was modelled to show any potential deterioration against the full timetable, and it was shown to be similar to the modelled impacts of the previous timetable changes, but much less than the modelled performance impacts forecast by the introduction of new Elizabeth Line services. A reduction to 4 pairs of paths would see modelled impact reduce even further, being less than previously accepted by Network Rail and First Group on earlier service changes.

First Group also questioned the legitimacy of the support Grand Union has from the Welsh Government. The statutory duties of the ORR require it to have regard to the notified strategies and policies of Welsh Ministers.

The DfT agreed with the First Group position, but also suggested that all services on the route would have to be 'slowed down' meaning an overall modelled reduction in the total route revenue. This issue has been fully addressed with a series of conflict free train paths.

The issue of wiring in the Severn Tunnel raised by Cross Country has been resolved as there is now a fully electrified railway through the Severn Tunnel.

The issues of capacity, platforming and performance have all been resolved.

8.3 Unresolved issues: please set out any issues raised by consultees which have ***not*** been satisfactorily resolved, including any correspondence with that consultee. You may wish to refer to

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responses attached to this form. Please explain why you think these issues should not stop ORR approving the application.

'Abstraction' was highlighted by both the DfT and First Group, and while their comments and figures were redacted at consultation, they both stated that the modelled abstraction would be higher than modelled as GWR services would 1. have to be reduced. 2. journey times would be increased and 3. GWR was not in a position to compete due to its IEP contract. This later changed when GWR stated it would compete in a different response it made in consultation. These assertions have proven to be unfounded.

The modelled abstraction for 6 pairs of paths is less than the modelled abstraction for First Group's 5 pairs of paths on the East Coast Main Line (ECML) at today's prices. These services are due to start later this year. There are 44 open access paths approved on the ECML to English destinations, with 10 to Scotland. These have a combined turnover when fully operational of around £120m. In the time since the first approval in 1999, the total number of services to the 'core' ECML destinations has continued to increase by all operators. In respect of York for example the DfT operator runs *more* additional services calling at York than the entire quantum of the Grand Central open access service group. If abstraction really was an issue, then services would reduce, but that has never been the case, the opposite is true. It is the reason why, after more than 20 years, there remains no evidence to support the abstraction argument which is consistently raised by the DfT and operators seeking to prevent competition.

The competitive response to open access has seen the introduction of price competition and an increase in overall service provision, leading on to a further increase in passenger satisfaction and is in line with Keith Williams experience within the airline industry. There is plenty of evidence to support that position on rail, and it is as outlined by the ORR in its 'Access Policy – final conclusions' document. It is therefore not surprising that the 3 operators on the ECML regularly have passenger satisfaction figures in the mid 90%.

A recent survey undertaken by Transport Focus by its Transport User Panel asked: "To what extent would you be more likely to travel by train?" The highest results were if fares were cheaper, with 86% stating that would make them more likely to travel by train. It is therefore unsurprising that the number of coaches that operate between Cardiff and London is around 30 a day in each direction, much more than seen elsewhere on the network for equivalent journeys.

Passengers are extremely sensitive to price, and in the Transport Focus Autumn Survey of 2019, Value For Money (VFM) for open access operator Grand Central was 75%, whilst for GWR it was 53%. This clearly shows that the ORR's role as the Competition Regulator has delivered and continues to deliver

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for those using the many competitive ECML services. Grand Central consistently outscores other operators in VFM by a significant margin.

Grand Union's application for 4 pairs of services is much less than the 44 services that have so far been approved on the ECML, and even less than the only approval so far on the West Coast Main Line (WCML). The modest modelled abstraction for 4 train pairs is significantly lower than the modelled levels previously accepted on other routes. If Grand Union is operating and helping with the recovery from later in 2022, then any modelled abstraction based on years 2025/26 would be measured pro-rata in the intervening period prior to full recovery. However, the Chancellor has recently stated that he expects the economy to recover more quickly from the pandemic than previously thought, with the economy returning to its pre-pandemic size six months earlier; by the middle of next year.

Going forward, as evidence shows and the ORR has observed and noted following previous approvals for open access services, abstraction reduces over time as new services become established, and the overall market for all operators grows.

There is no evidence available to support any argument on abstraction, and the continued growth of services where competition exists proves clearly that competition drives the market. Competition works on rail as it does in other industries.

Some recent output from the Rail Delivery Group and Imperial College London has modelled the potential changes in rail usage that could be expected as the country moves forward from the pandemic. It modelled scenarios for 2021, 2023 and 2025, with leisure and business recovering more quickly than commuter. Leisure and business are the main markets for Grand Union. This RDG/ICL output is showing a similar recovery to that expected by the Chancellor from his recent Budget speech.

It is instructive to note that despite the uncertainties in the market, First Group continues to prepare for the introduction of its new East Coast Train services later in 2021. This shows private sector confidence in the railways and its ability to recover, clearly more confidence in rail than is shown by the DfT.

Any modelled impact on the funds available to the Secretary of State are initially balanced by the NPA test as outlined earlier, and in this case any modelled impact should also be reduced by the modelled impact on TfW which supports the application. Grand Union will pay significant sums in station access charges and retail commission, income that is 'free' to the industry and which has a positive impact on the funds available to the Secretary of State. Currently the ORR does not allow further operator benefits to be netted off within the NPA test, but it is a benefit, and in the context of the impact on funds available to the Secretary of State should therefore be taken into account.

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Grand Union will not enter the market until May 2022 at the earliest. By then the Chancellor has stated he expects the UK economy to be close to its pre-pandemic levels. The confidence of the private sector will be of vital importance in encouraging passengers back to the railway, and the recently implemented fares rise, while the industry is in flux, shows a complete misunderstanding of the dynamics of the marketplace. That has also been all too evident in some of the consultation responses previously received.

All the paths sought in the application are conflict free and have been assessed previously by the ORR as acceptable in capacity and performance terms.

The optimistic forecast from the Chancellor on recovery and the importance of the service to the Welsh Government and the people of South East and West Wales - the fact that any impact on the funds available to the Secretary of State is now at or below the lower levels of abstraction previously acceptable (for which the NPA threshold is the balance between economic benefit and the funds available to the Secretary of State) – the fact that the NPA ratio is now at 0.69 to 1, far in excess of the threshold figure - the fact that abstraction reduces as services become established - are significant reasons why we look to the ORR to grant this application.

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9. Certification

*Warning: Under section 146 of the Railways Act 1993, any person who, in giving any information or making any application under or for the purposes of any provision of the Railways Act 1993, makes any statement which he knows to be false in a material particular, or recklessly makes any statement which is false in a material particular, is guilty of an offence and so liable to criminal prosecution **C&Ps para 3.40***

In the case of agreed applications under section 18 or 22, Network Rail should fill in the required information in the box below. For disputed applications under section 17 or 22A, the applicant should fill in the required information.

I certify that the information provided in this form is true and complete to the best of my knowledge

Signed Date

Name (in caps) Job title

For (company)

10. Submission

10.1 What to send: please supply, in hard copy, the signed application form, one copy of the proposed contract or amendment, with copies of any documents incorporated by reference (other than established standard industry codes or other documents) and any other attachments, supporting documents or information. **C&Ps para 3.39**

Please also supply the application form, the proposed contract or amendment and, where possible, any other supporting information, in electronic form, by e-mail or on disc, **in plain Microsoft Word format** (i.e. excluding any macros, auto-para or page numbering, or other auto-formatting). **C&Ps para 3.37-3.38**

10.2 Where to send it:

Manager, Track Access Team
Directorate of Railway Markets and Economics
Office of Rail and Road
One Kemble Street
London
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