

**STRICTLY CONFIDENTIAL: PUBLICATION OUTSIDE DB CARGO AND ORR IN REDACTED FORM ONLY**

Annex (3): contains sensitive information concerning long-term commercial contracts held by DB Cargo (UK), along with details of recent and planned long-term specialised investments.

██████████ of DB Cargo (UK). This Annex (3) should be treated as strictly confidential and has been produced solely for ORR, to enable it to consider the application.

The Government continues to invest heavily in the network for the specific benefit of encouraging and promoting the growth of rail freight services (e.g. Strategic Freight Network Fund). To ensure Government receives the benefits of its rail freight specific investments, it is essential that rail freight operators conduct business in an environment that provides certainty and stability over the long term. Such an environment should include long-term track access contracts which are critical to fostering investments by rail freight operators, customers, Government, Network Rail and relevant third parties, to ensure rail freight is able to continue its growth since privatisation (including modal shift in attracting freight traffic from the nation's congested road system). Risks around network access directly influence the ability to build positive business cases for investments and unless the risks are addressed there is a real prospect that private sector investment will be stymied. Much needed investment into the sector is at risk if the greater certainty provided by an extension to Track Access Rights, giving an assurance on capacity up to 2030 is not progressed.

DB Cargo (UK) believes that its application for an extension to its current ten-year Track Access agreement satisfies ORR's guidance on the granting of long term track access contracts for freight services with a term longer than five and up to ten years. DB Cargo (UK) understands that the considerations ORR takes into account when assessing such applications include:

- it is justified by the length and nature of any relevant commercial contracts that are proposed;
- there is an underlying investment in railway assets which is primarily sunk (i.e. investment that cannot reasonably be recovered by selling those assets or using them elsewhere). In doing so, we will have regard to any evidence that specific investment could not be made (because of its size or payback period) without a longer-term track access contract; and
- the beneficiary requires the access rights for the period of the application in order to secure the benefits of investment or other public interest benefits; and the rights do not provide the opportunity to eliminate competition from other operators in respect of a substantial part of the services in question; or the operator faces a specialised risk profile, which could include for example risks arising from demand and costs, as well as competition from other transport modes. We will consider past investment made in the context of current risks providing the applicant can justify that it is relevant.
- In every case, we will expect the contract to have enough flexibility to provide for the review of and transfer or loss of access rights where there is no longer a continuing contractual need for them.

DB Cargo (UK) considers that its application meets those considerations.

#### Investments

DB Cargo (UK) continues to invest in its locomotives and wagons and has an ongoing spending programme ██████████

[REDACTED] This is in addition to other long-term investments in freight facilities (depots, yards, terminals, administration) and systems. [REDACTED] investments, [REDACTED], have helped enhance the productivity, efficiency, performance and reliability of DB Cargo (UK) rail freight services, with an expectation of DB Cargo (UK) having long term access to the network (i.e. beyond 30-years).

Recently, DB Cargo (UK) has committed significant sums, constructing new freight facilities and upgrading its existing freight facilities. Examples [REDACTED]  
 [REDACTED]  
 [REDACTED] include some government funding.

DB Cargo (UK) has recently been awarded a contract [REDACTED]  
 [REDACTED] This involves a commitment to significant investment [REDACTED]  
 [REDACTED]  
 [REDACTED]  
 [REDACTED]  
 [REDACTED]

Long-term Customer Contracts

In addition, DB Cargo (UK) also has long-term commercial contracts with end customers.  
 [REDACTED]

[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

Many rail haulage contracts in the freight sector are for 3 or 5 year terms typically, with contract awards subject to competitive tender, consequently most new awards going forward would likely go beyond the expiry date of DB Cargo (UK)'s current track access contract at PCD

2026. Customers holding contracts which extend beyond the expiry of the current Track Access Contract held by DB Cargo (UK) want certainty on future capacity and opportunities for growth to underpin investment decisions.

If ORR requires further information on matters contained in this confidential Annex (3), or indeed elsewhere in the application then please contact Quentin Hedderly [redacted].