

Louise Beilby
Senior Access Executive



13 May 2025

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Dear Katy and Steve

Approval of the 41st supplemental agreement to the track access contract between Network Rail Infrastructure Limited (Network Rail) and XC Trains Limited (trading as CrossCountry) dated 8 August 2017

We have today approved the above supplemental agreement submitted to us formally on 13 May 2025 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. It also explains ORR's position on the concurrent application that CrossCountry has submitted in accordance with section 22A of the Act.

Concurrent section 22A application

On 24 April 2024 ORR [wrote to industry](#) to set out a process for access applications for the December 2024, May 2025 and December 2025 timetable changes. In that letter we asked industry to comply with a deadline of 20 May 2024 for applications for additional rights (or amended rights that change capacity parameters) for these timetable changes that met specific criteria. CrossCountry submitted such an application on 25 January 2024, followed by a reduced version of the application on 22 October 2024.



In reaching a decision on this supported 41st supplemental agreement, it is important to clarify that:

- ORR has reached its decision in the full knowledge of CrossCountry's concurrent section 22A application;
- CrossCountry's section 22A application remains "live" and we continue to try to progress it. However, ORR is not currently in a position to reach a decision in relation to that application. Additionally, Network Rail has not yet completed its analysis. We continue to press Network Rail to complete its analysis as quickly as possible; and
- most importantly, the approval of the 41st supplemental agreement ensures that CrossCountry has approved access rights in the May 2025 timetable.

Purpose of 41st supplemental agreement

The purpose of the 41st supplemental agreement is to grant CrossCountry further rights necessary to operate its proposed May 2025 timetable, following the approval of the 37th supplemental agreement which put in place the bulk of the rights required. In total, three additional firm rights have been put in place from Penzance to Bristol and one from Derby to Birmingham New Street. This latter addition replaces an existing right from Nottingham to Birmingham via Derby which has been relinquished in order to shorten the service.

There are also two new contingent rights between Bristol and Cardiff and one from Nottingham to Birmingham New Street.

The rights are to commence on the Subsidiary Change Date (SCD) in May 2025. The contingent rights will expire on the Principal Change Date (PCD) in December 2025, and the firm rights will expire on the expiry date or earlier termination of CrossCountry's contract.

Network Rail noted that it could only agree to the requested additional access rights on the Bristol to Cardiff and Derby to Birmingham routes on a contingent basis until PCD 2025 due to potentially competing applications from other train operators, and that there could be no presumption of the continuation of these additional rights beyond PCD 2025.



Industry consultation

Network Rail undertook the usual industry consultation for one month from 1 April 2025. Comments stating that there were no concerns or queries were received from the West Midlands Trains, Transport Focus, Great Western Railway, and West Yorkshire Combined Authority.

ORR review

Our review of the application identified some discrepancies in the figures in tables 2.1 and 2.2 of Schedule 5, which did not tally with the changes that had already been approved as part of the 37th supplemental agreement. We queried this and Network Rail amended the supplemental agreement to reflect the changes accurately.

We noted Network Rail's position on the continuation of additional rights on the Bristol to Cardiff and Derby to Birmingham routes beyond PCD 2025 due to competing aspirations from other train operators. In light of this, our usual policy of a strong presumption of the continuation of existing rights will not apply for these rights beyond PCD 2025.

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 the Department for Transport and Network Rail's Policy and Access Team. 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.



Yours sincerely

Louise Beilby