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Senior Access Executive



13 May 2025

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Dear Katy and Steve

Approval of the 37th 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 37th 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 37th supplemental agreement ensures that CrossCountry has approved access rights in the May 2025 timetable.

Purpose of 37th supplemental agreement

The purpose of the 37th supplemental agreement is to grant CrossCountry the rights necessary to operate its proposed May 2025 timetable. This entails the reinstatement of a number of services which were removed or reduced during the COVID-19 pandemic on the Reading-Birmingham-Newcastle and Manchester-Birmingham-Bristol corridors, on a contingent basis for one timetable period only; and the extension of some services between Birmingham and Cambridge to start and end at Stansted Airport.

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 extensions to and from Stansted 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 Reading-Birmingham-Newcastle and Manchester-Birmingham-Bristol corridors 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 31 January 2025. Comments stating that there were no concerns or queries were received from the Core Valley Line, Northern Trains, Transport Focus, Great Western Railway, London Travel Watch, Transport for London, and Avanti West Coast.

Chiltern had some queries about the routing and numbers of some services, which Network Rail answered to the respondent's satisfaction.



Greater Anglia queried the inclusion of Audley End station as a regular calling pattern due to the potential impact this would have on its own Stansted Express service. However, it also stated that it supported the application, although only on the understanding that Greater Anglia's services would not have to be changed to accommodate those of CrossCountry.

Freightliner initially stated an objection to the application due to the continued non-resolution of its own 18th SA, explaining that it could not support the selling of additional rights in this area until all existing applications have been resolved. However, it withdrew its objection on the basis that the rights CrossCountry is seeking are contingent and for one timetable period only.

West Midlands Trains pointed out the potential impact on punctuality and service standards of the introduction of long-distance services calling at Birmingham, but did not uphold any objection to this application.

ORR review

Our review of the application identified some discrepancies in the quantum of rights that were reduced and increased to accommodate the extensions to and from Stansted Airport, as well as some errors in the figures in table 2.2 of Schedule 5. We queried this and Network Rail and CrossCountry amended the supplemental agreement to reflect the changes accurately.

We also noticed that the routing errors raised by Chiltern during the industry consultation had not been rectified and asked that this be incorporated into the supplemental agreement.

We noted Network Rail's position on the continuation of additional rights on the Reading-Birmingham-Newcastle and Manchester-Birmingham-Bristol corridors 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