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Network Rail Final Representations for the proposed 23rd Supplemental Agreement submitted under Section 22A of the Railways Act 1993 for the Track Access Contract between Network Rail Infrastructure Limited and Freightliner Limited dated 11 December 2016.

This letter provides final representations from Network Rail Infrastructure Limited (Network Rail) for the 23rd Supplemental Agreement (SA) submitted under Section 22A of the Railways Act 1993 for the Track Access Application between Network Rail and Freightliner Limited (Freightliner) dated 11 December 2016.

This representation builds upon the representations submitted by Network Rail for this application on the 28 June 2024 and 04 December 2024.

The purpose of this final representation is to provide ORR with Network Rail's final position on this application (and the specific access rights within it) and will do so by providing facts, data and evidence to support our position. Network Rail can confirm that based on the facts, data and evidence outlined in this representation, it is **partially supportive of this application**.

This application is flagged as interacting at one of the ORR defined locations. Annex A shows a list of all the interacting applications and which of the nine locations they interact at. However, there are other locations where this application does interact with other unsupported applications. Birmingham area was previously flagged against one right within this application, however, this right is routed via the Trent Valley.

Where there are a number of applications seeking capacity at the locations referred to in this letter, and as detailed in Annex A, the basis of our support of applications either in total, or in part (as can be determined by reading the relevant representations), may have a connection to our position on all other applications at that location. You may wish to wait for final representations on related applications and the information provided therein prior to making your decision.

Background of the Application and Network Rail Representations

In line with ORR's letter of 24 April 2024 to the industry on 'Competing and/or complex track access applications for December 2024, May 2025 and December 2025 timetable changes', Freightliner submitted this application to the ORR on 20 May 2024 as a S22A application in line with ORR's deadline.

As requested by ORR, Network Rail submitted a High-Level Plan in June 2024, and a further detailed plan was published on Network Rail's website in August 2024 and updated in January 2025.

Network Rail made its initial representations on this application on 28 June 2024 where an initial view of the application was provided. There were no significant issues highlighted to ORR at that time and there is nothing outstanding from our initial representations on 28 June 2024. those representations.

On 25 October 2024 ORR requested that Network Rail provide further representations for this application. Network Rail responded on 04 December 2024 with a further representation. In that representation we highlighted the following interactions:-

- 2 of the 3 trains running under Train Operator Variation Request (TOVR) Rights and 5 of the 6 trains seeking amended firm rights use the West Coast Mainline South (ORR listed location).
- Further to this, a number of future freight aspirations for Daventry are included in the Direct Rail Services Limited 17th and Freightliner Heavy Haul Limited 28th Supplemental Agreements.
- All trains have a potential interaction in the Mossend/Coatbridge area with the Freightliner Intermodal Limited 28th Supplemental Agreement and GB Railfreight Limited 34th Supplemental Agreement.
- 2 of the 3 trains running under TOVR Rights and 5 of the 6 trains with amended firm rights have potential interactions on West Coast Mainline North with the Direct Rail Services Limited 17th, Freightliner Heavy Haul Limited 27th and 28th, Freightliner Intermodal Limited 28th, GB Railfreight Limited 34th, Avanti West Coast's 11th and 14th Supplemental Agreements and open access aspirations from East Coast Trains Limited (Lumo) and Virgin Management Limited (Virgin Trains).
- 4M30 (Saturday only) runs through the Birmingham area (ORR listed location).
- Freightliner Intermodal Limited's 28th Supplemental Agreement contains four aspirations for Grangemouth

As such, we were unable to progress this application until further work was completed in line with the High-Level plan referenced in that representation and submitted to ORR in June 2024, the further detailed plan published August 2024 and updated in January 2025.

There is nothing outstanding from our initial representations on 28 June and 25 October 2024.

Summary of Access Rights sought in this application

In their application and as a high-level summary Freightliner Limited is seeking:-

- 3 new Firm Access Rights with 1 hour windows to commence on approval until PCD 2026. These trains are currently running under Contingent Rights, originally for the December 2024 timetable as a General Approval in the 18th SA, and now dated until the end date of the May 2025 timetable in the Freightliner Limited 29th SA General Approval submitted in line with the Interim Approach taken by Network Rail. 6 amendments to existing Firm Access Rights (with 1 hour windows).

Full details of all Rights sought by this application are contained in the Schedule 5 Rights Table

submitted with the S22A. These Rights relate to Intermodal traffic for WH Malcolm Limited between Daventry and Grangemouth. Details of the services can be found in Annexes B and C.

Without reference to those rights sought where we have detailed a rejection, removal, or where we understand rights are being relinquished, we would note the following of the remaining contents of this application:

- Seven of the prospective rights use West Coast Main Line (WCML) South. However, they do not operate into or out of London Euston on the WCML South fast lines.

Rights supported

Where Network Rail is supportive of firm rights with one-hour arrival/departure windows; this is on the basis of the service being accommodated in the December 2025 Timetable in an area where we have concluded our considerations of any other applications submitted in response to ORR's letter of 24 April (if they exist) and/or in the ECML proposed December 2025 Timetable.

In the representations Network Rail has made to date it has supported some Rights on a Quantum (24hr) basis to enable flexibility in developing the December 2025 timetable and/or where the characteristic of the right being requested was different to the associated train slot. Following completion of Phase 5 of our high level plan, Network Rail would be supportive of a Firm Right with a 1 hour window providing the operator confirms to Network Rail and ORR that they are willing to amend the Right sought to align with the Working Timetable.

We have worked with all freight operators to understand and challenge the rights being sought in their applications and confirm the ongoing need.

Where we are supporting rights relating to existing traffic in this and other applications, we would observe that if rights were not awarded by ORR, the paths would have to be removed from forthcoming timetables. Not only would outcome be inconsistent with the regulatory targets to support freight growth, it is likely that the business would not disappear and it could be reasonably expected that the freight operators would re-bid using the provisions in the model freight contract and the Network Code. In such instances freight operators are likely to require access to otherwise constrained capacity and the likely consequence would likely need to be considered by ORR if looking at any further or future interacting aspirations.

Rights not supported

Where concerns relating to the Rights have been identified we have considered support on a case by case basis, reviewing the specific risks and mitigations in place relating to that service/Right. In some instances Network Rail is unable to support rights where there is increased risk and mitigations are not agreed, not adequate or where Network Rail wants to see if the mitigation outcome is successful.

We are also unable to support rights where an operator has removed a service through Capacity Management Review Group (CMRG), has agreed to remove the right from their application in conversation with Network Rail and/or the path has not been bid for the December 2025 Timetable at D-40.

Assurance / Assessments / Updates

The following section will address specific areas of consideration, opportunity and risk relevant to the application or where applicable to specific access rights in the application. Where the outputs relate to specific access rights instead of the application as a whole, this will be highlighted in the relevant section.

Industry Consultation

Industry Consultation for this application commenced on 24 May 2024, and concluded on 24 June 2024. No concerns were raised relating to any of the headcodes in this application during consultation. Network Rail have not identified any significant concerns regarding this application.

Capacity

Annex B shows the Rights that Network Rail can support as Firm with a 1 hour window. All these trains have been accommodated into the December 2025 timetable. The trains in this category either meet the characteristics and timings consistent with what is included in this application, or, where appropriate, are highlighted with a suggested amendment.

There are two services which have characteristics different to what was originally submitted and we are able to support these as set out below.

- The Right sought for 4S48 (SX) Daventry Int RFT Recep FL – Mossend PD Stirling is for a 03.15 – 04.15 arrival window but the Working Timetable path arrival time is at 02.43. Network Rail would support a 02.13 – 03.13 arrival window.
- The Right sought for 4M30 (SO) Grangemouth FLT - Daventry Int RFT Recep FL is for a 23.07 – 00.07 arrival window but the Working Timetable path arrival time is at 22.04. Network Rail would support a 21.34 - 22.34 arrival window.

If Freightliner cannot accept our support for these changes then Network Rail cannot currently support the Rights requested with the proposed 1 hour window as part of this representation.

Paths, which align to the Rights within the FLIM 23rd SA presents conflicts against rights in the FLHH 27th, FLHH 28th SAs and East Coast Trains Limited (Lumo NorthWest) Section 17 application on WCML North. Our final representation on FLHH's 28th SA has been shared and is dated 11 April 2025 and the supplemental agreement has since been withdrawn. The conflicts with the FLHH 27th are against services which are not in the current timetable and have not submitted in the access proposal submitted for December 2025 at D-40. We will be providing further details in our representation on FLHH's 27th SA at a later date. Our final representation on the East Coast Trains Limited (Lumo NorthWest) Section 17 application has been shared and is dated 9 May 2025. Network Rail are not supportive of the conflicting services in these applications and so the ORR should be aware that if rights were directed for any of the applications listed below then this could involve a trade-off against the rights in FLIM's 23rd Supplemental Agreement. You may wish to wait for final representations on related applications and the information provided therein prior to making your decision.

All Rights sought in this application are for train services which operate with diesel locomotives so there are no power supply concerns.

WCML

Please refer to the Network Rail letter to ORR "Network Rail representations on WCML to ORR" dated 25 April 2025 namely Section 5 'Congested Infrastructure' and Section 6 'Performance Concerns Affecting WCML applications'.

Multiple services in this application have the potential to interact with access applications which have aspirations to operate services up/down the West Coast Main Line North of Preston and were submitted to ORR by 20 May 2024. ORR may wish to consider other applications which traverse this section of the WCML alongside this representation. Network Rail has provided evidence relevant to applications operating on the West Coast Main Line in two general representation letters (07 February 2025 and 25 April 2025), in which Network Rail sets out its position of not supporting additional services which utilise the West Coast South Fast Lines.

Performance

For all freight applications, Network Rail has assessed the performance of each headcode in this application against the following criteria:

- Right Time Departures - average above 80 % over 13 periods = pass
- FOC on Other Operators delay - less than 5 instances over 13 periods = pass

All the headcodes in this application passed these criteria, so Network Rail is satisfied that the services perform well and that no further analysis is required.

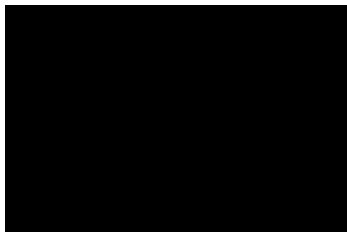
Conclusion

In this representation letter we have confirmed that we can partially support the access rights sought in this application as Firm 1 hour windows, with amendments to timing loads and windows where relevant, as outlined in this representation and Annex B.

If ORR chooses to direct this application, we would like the opportunity to review any finalised Schedule 5 table drafting before ORR directs.

Network Rail considers that this letter provides information that could be used as a final representation for this application and could enable the ORR to make a direction.

Yours sincerely



Megan Holman

Customer Relationships Executive

Annex A – Interacting Locations matrix

Operator/Application/Type	Status of Application	WC ML south	Birmingham	BH M-De Derby	Sheffield	ECML & Leeds	Oxford	GloUCEster	Cardiff
Alliance Rail Cardiff - Edinburgh 17	Withdrawn		x	x	x	x		x	x
Avanti 3rd SA 22a	Live	x	x						
Avanti 11th SA 22A	Withdrawn	x	x						
Avanti 14th SA 22A	Withdrawn	x	x						
Avanti 17th SA 22a	Live	x	x						
Avanti 18th SA 22a	Live	x							
Caledonian Sleeper 9th SA 17	Live	x	x			x			
Colas 10th SA 22a	Live			x	x	x			x
CrossCountry 38th SA 22a	Live		x	x	x	x	x	x	x
DBC 72nd SA 22a	Live				x	x			
DBC 73rd SA 22a	Live				x	x			
DBC 79th SA 22a	Live			x		x	x		x
DBC 81st SA 22a	Live		x	x	x	x	x	x	x
DBC 86th SA 22a	Live				x	x			
DBC 87th SA 22a	Live		x	x	x	x		x	x
DBC 88th SA 22a	Live				x	x			
DBC 83rd SA 22a	Live	x							
DBC 84th SA 22a	Live						x		
DBC 85th SA 22a	Live								
DBC 91st SA 22a	Withdrawn	x							
DBC 92nd SA 22a	Live								x
DCR 2nd SA 22a	Live	x	x	x	x	x	x		
DRS 17th SA 22A	Live	x	x	x	x	x		x	x
EMR 19th SA 22A	Live					x			
EMR 20th SA 22A	Live				x	x	x		
EMR 21st SA 22A	Live				x	x	x		
FLHH 24th SA 22A	Live	x					x		
FLHH 25th SA 22A	Live	x	x	x	x	x	x	x	
FLHH 26th SA 22A	Live				x	x	x		
FLHH 27th SA 22A	Live	x	x	x	x	x	x	x	x
FLHH 28th SA 22A	Withdrawn	x	x	x	x	x	x	x	x
FLIM 21st SA 22A	Live		x	x	x	x	x		
FLIM 22nd SA 22A	Live		x	x	x	x	x		
FLIM 23rd SA 22A	Live	x	x						
FLIM 24th SA 22A	Live	x	x	x	x	x	x		
FLIM 25th SA 22A	Live	x	x	x		x	x		x

FLIM 26th SA 22A	Live	x			x	x	x	x		x
GBRF 25th SA 22a	Live	x	x	x	x	x	x	x		
GBRF 34th SA 22a	Live	x	x	x	x	x	x	x	x	x
GBRF 41st SA 22A	Live						x			
Govia Thames Railway 62nd SA 22A	Live						x			
Govia Thames Railway 63rd SA 22A	Live						x			
Grand Central 24th SA 22A	Directed by ORR						x			
Grand Central 28th SA 22A	Live						x			
GWR 201st SA 22a	Live							x	x	
GWR 202nd SA 22a	Live								x	
Hull Trains 27th SA 22A	Live					x	x			
Hull Trains 28th SA 22A	Directed by ORR						x			
Hull Trains 29th SA 22A	Live						x			
LIS 2nd SA 22a	Live						x			
LNER 34th SA 22A	Live						x			
LNER 35th SA 22A May '28	Live						x			
LNER 36th SA 22A	Live						x			
LNER 37th SA 22A	Rights were being sought until Dec 2025 so not included in analysis						x			
LNER 38th SA 22A	Live						x			
Lumo 11th SA 22A	Live						x			
Lumo 12th SA 22A	Live						x			
Lumo London-Rochdale New Contract S17	Live	x								
Northern 57th SA 22	Directed by ORR (some of the access rights in this application were withdrawn before direction and added to the Northern 60thSA)					x	x	x		
Northern 59th SA 22a	Live					x	x			
Northern 60th SA 22a	Live					x	x			
Scotrail 49th SA 22a	Withdrawn						x			
Scotrail 50th SA 22a	Live						x			
Scotrail 51st SA 22a	Live						x			
Super Tram 11th SA 22a	Live					x				
TfW 28th SA 22a	Live		x	x					x	x
TfW 31st SA 22a	Live								x	x
TfW 32nd SA 22a	Live									x
TPT 58th SA 22a	Live					x	x			
TPT 62nd SA 22a	Rights were being sought until Dec 2025 so not included						x			

	in analysis									
TPT 63rd SA 22a	Live						x			
TPT 64th SA 22a	Live					x	x			
TPT 65th SA 22a	Live						x			
Varamis 2nd SA 22a	Live	x	x				x			
Virgin New Contract 17	Live	x	x							
WMT 22nd SA 22A	Live		x	x						
WMT 28th SA 22A	Live		x	x						
WMT 30th SA 22A	Withdrawn		x	x						
WMT 31st SA 22A	Withdrawn		x							
WMT 32nd (29th) SA 22A	Live	x	x	x						
WSMR New Contract 17	Live	x	x	x						

Annex B – Rights that Network Rail can support as Firm with a 1 hour window

Train Reporting Number	Days per Week	Departure Window From	Departure Window To	Origin	Destination	Arrival Window From	Arrival Window To
4S48***	SX	18:45	19:45	DAVENTRY INT RFT RECEP FL	MOSSEND PD STIRLING (FLHH)	03:15	04:15
4N30	SX	15:45	16:45	MOSSEND PD STIRLING (FLHH)	GRANGEMOUTH FLT	17:07	18:07
4S49	SO	11:43 10:35	12:43 11:35	DAVENTRY- IRFT INT RFT RECEP FL	GRANGEMOUTH TDG FLT	21:36 22:05	22:36 23:05
4S49	SUN	20:58 20:55	21:58 21:55	DAVENTRY- IRFT INT RFT RECEP FL	GRANGEMOUTH TDG FLT	05:22 06:55	06:22 07:55
4N30	SUN	13:59	14:59	MOSSEND DOWN YARD	GRANGEMOUTH TDG	15:18	16:18
4M30	FSX	18:51	19:51	GRANGEMOUTH TDG FLT	DAVENTRY- IRFT INT RFT RECEP FL	03:51	04:51
4M30	FO	18:50	19:50	GRANGEMOUTH TDG FLT	DAVENTRY- IRFT INT RFT RECEP FL	04:31	05:31
4M30***	SO	10:00	11:00	GRANGEMOUTH TDG FLT	DAVENTRY- IRFT INT RFT RECEP FL	23:07	00:07
4M30	SUN	20:30	21:30	GRANGEMOUTH FLT	DAVENTRY INT RFT RECEP FL	06:45	07:45

***This is dependent on Freightliner confirming to Network Rail and ORR that they are willing to amend the Right sought to align with the Working Timetable. The detail of this can be found in the **Capacity** section in the main letter.