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Dear Rebecca and Darren

63rd Supplemental Agreement to the Track Access Contract between Network Rail Infrastructure Limited (Network Rail) and Govia Thameslink Railway Limited (GTR) dated 2 March 2016

1. Today, we issued directions under section 22A of the Railways Act 1993 (the Act) to Network Rail and GTR (jointly the parties) to enter into the above supplemental agreement. This letter explains the reasons for our decision. ORR's approval of this application will increase service provision and ensure continuity of existing services for passengers between London King's Cross and Peterborough, and surrounding area, and will give the train operator certainty for the purposes of planning its business.

Background

2. On 24 April 2024, ORR wrote to industry setting out a process for access applications for December 2024, May 2025 and December 2025, given our expectation (as confirmed by Network Rail) that we would receive numerous complex and competing applications across that period. Applications were submitted to ORR for direction as "unsupported" applications, as Network Rail was not able to agree that there was sufficient capacity and therefore submit agreed applications for our approval.
3. [DfT wrote to us](#) on 20 June 2025 referring to "the cumulative scale and impacts of abstraction when [ORR] assesses Open Access applications" and asking ORR that this should be "factored into all future decision-making". To ensure that we were able to

proceed with decision making for relevant public service operators in light of this, we had to clarify the DfT letter before finalising our decisions.

4. As we were already at an advanced stage in the decision-making process for this and many other applications by this point, [we wrote to DfT](#) stating that we intended to proceed with our established approach to access applications for the East Coast Main Line (ECML) in order to support the major timetable change coming up in December 2025 and to avoid risk to that timetable's implementation. As we did not receive a response by Monday 7 July we have proceeded with decision making in line with our published policy.

Application

5. The purpose of this supplemental agreement is to grant GTR a number of rights to operate services on and around the East Coast Mainline South between King's Cross and Peterborough via Welwyn Garden City. Other starting and finishing points impacted include King's Lynn, Cambridge, Ely, Royston, Letchworth Garden City, St Pancras, Blackfriars, and Baldock.
6. It should be noted that the rights within this supplemental agreement were originally contained within two separate applications, the 62nd and 63rd, the former of which was planned to be effective from the Principal Change Date (PCD) in December 2024 and the latter from PCD 2025. Network Rail proposed to grant GTR some of the rights sought in the 62nd supplemental agreement for one timetable period only on a contingent basis with no presumption of the continuation of these additional rights beyond the Subsidiary Change Date (SCD) in May 2025. To maintain service continuity, the rights were granted on this basis as part of the agreed S22 65th supplemental agreement and then extended for a further timetable period from SCD 2025 to PCD 2025 by the 67th supplemental agreement. GTR has upheld its application to hold them on a firm basis from PCD 2025 to the end of its contract, and subsequently the 62nd and 63rd supplemental agreements were combined, as both were now to become effective from the same date.
7. The rights are to commence upon PCD 2025 and will expire on the expiry date or earlier termination of EMR's track access contract.

Industry consultation

8. The initial industry consultation took place from 24 May to 24 June 2024, noting that the applications at that time included a wider range of rights across GTR's operated network, some of which were separated into agreed applications 65th and 67th supplemental agreements and each approved for one timetable period only on a contingent basis. Comments in support or stating no objection were received from DB Cargo, Avanti West Coast, Transport Focus, London Travel Watch and Grand Central.
9. Arriva Rail London stated a number of potential concerns about the possibility of GTR's requested services impacting on its own and requesting further information about the

planned timing loads and train lengths. It pointed out that it was not in possession of all the facts at that time to be able to state whether or not it supported the application.

10. CrossCountry, GB Railfreight, London North Eastern Railway, Greater Anglia, and Freightliner all stated that they did not yet have enough information about other potential applications in the area, the status of the ECML Event Steering Group (ESG) timetable, and Network Rail's plans to accommodate the various competing services to be able to offer their support.
11. When industry was invited to comment on Network Rail's final representations from 15 April to 2 May 2025, only GB Railfreight took this up. It stated that it was concerned that the requested rights had never been subject to peak morning modelling on the ECML South, an issue it had been raising for several years without a satisfactory answer. Network Rail was invited to comment on this, and it responded that it believed it had been clear and transparent about the parameters of the modelling runs it had carried out on the ECML, and that these had all been within the original ESG remit. As no other parties responded at this time, we have concluded that there are no outstanding objections to GTR's request at this stage.

Statutory Consultation

12. As required under the Act, on 30 May 2024, we sought Network Rail's representations on the two original applications, and it replied on 28 June 2024. We forwarded these representations to GTR on 3 July 2024 and asked for its comments. GTR provided comments on 22 July 2024.
13. Following the completion of Network Rail's capacity analysis on the ECML and the other interacting locations associated with these applications, namely ECML South, it sent its final representations on 11 April 2025. Again, we forwarded these to GTR and asked for its comments, which it provided on 7 May 2025.

Network Rail's representations

14. In its initial representations dated 28 June 2024, Network Rail stated that it was unable to support the applications because they requested firm rights on the ECML South between London King's Cross and Peterborough, which was one of the 10 interacting locations identified by Network Rail as containing competing aspirations and subsequently listed by ORR in its letter of 24 April 2024. As a result, there are several other applications which impact on the ECML as a whole and the ECML South specifically. It stated that to support these rights for the duration of the contract could be perceived as unduly discriminating against other operators.
15. GTR acknowledged Network Rail's position but stated that several of the rights that had been requested were currently in its contract as firm and would now have to be treated as contingent, even though they did not increase the total quantum held.
16. In its final representations, Network Rail stated that it was now in a position to partially support the quantum of rights requested; namely, only those rights which align with

services that are contained within the ECML ESG timetable. It also noted that there were some services that were in the timetable but that were not currently supported by existing rights or requested rights in either the 62nd or 63rd supplemental agreements. In these cases, GTR will need to submit a separate application to put the rights in place.

17. In its response to Network Rail's final representations, GTR agreed with its position and advised that it would be submitting a further application to cover those rights not currently applied for that appear in the ECML ESG timetable.

ORR review

18. We carried out a full review of the application, taking into account issues that were being considered in relation both to this application and to the competing demands on capacity on the wider network. We noted that some of the rights being sought have been running on the network on a contingent basis since PCD 2024, but also that not all of these rights are part of the ECML ESG timetable.
19. Network Rail's representations stated power supply is generally (not specifically) an issue in this case because all the services are routed via Welwyn Garden City. However, we did not agree with this assessment because the ECML power modelling did not identify GTR services as a specific concern.
20. Access rights are approved or directed on a quantum basis. It is for Network Rail to produce a robust timetable to accommodate them. This application includes services which Network Rail has included in the East Coast Mainline Event Steering Group (ECML ESG) timetable for December 2025.
21. Since 2019, Network Rail has offered operators only contingent or time-limited rights, providing limited certainty for businesses. The ECML ESG was set up to transparently develop a timetable which considered the service specifications and aspirations of timetable participants for implementation. This process was cross-industry, involving public service, freight and open access operators.
22. For these reasons, in reaching our decision we have placed weight on reducing or ending the uncertainty of this period, in line with our duty of enabling operators to plan their businesses with a reasonable degree of assurance.
23. As referred to in the Network Rail representations, in late 2024, the Secretary of State and Department for Transport (DfT) accepted the recommendation to start the timetable in December 2025. This follows investment by the DfT in rolling stock and infrastructure to enable faster and more frequent services on the ECML. We consider directing the rights in this application supports our duty to have regard to guidance from the Secretary of State in terms of the value for money from public investment as well as the funds available to the Secretary of State.

24. Network Rail expects that implementing the ECML ESG timetable will lead to a limited reduction in train service punctuality. Network Rail is assuring us of the operational and timetable alterations it is leading with industry, to mitigate this reduction. It expects to be able to identify and implement further improvements following the introduction of the timetable.
25. In weighing all of our duties, reviewing the capacity and performance on the ECML and wider network, we consider directing rights which can be used to implement a longer-term baseline timetable, in this case the ECML ESG, is preferable to the alternative. Furthermore, we will continue to hold Network Rail to account to ensure the proposed timetable delivers the expected benefits to passengers, funders and freight operators.
26. We have looked more widely at other applications from both passenger and freight operators to run services in the same area and we do not believe that there is any direct conflict with their requests for capacity, such that the approval of this application would preclude us from approving any others.
27. Overall, we concurred with Network Rail's assessment on the basis that the services Network Rail is prepared to support are in line with what is in the ECML ESG timetable and that it has carried out its assessment in a fair manner. We concluded that we would direct the parties to enter into the supplemental agreement based on those rights that Network Rail has said it can support.

Our duties under section 4 of the Act and our decision

28. We have considered this supplemental agreement, and we have concluded that its approval is consistent with the discharge of our statutory duties under section 4 duties of the Act: in particular, those relating to:
- enabling persons providing railway services to plan their businesses with a reasonable degree of assurance (section 4(1)(g))
 - promoting improvements in railway service performance (section 4(1)(zb))
 - protecting the interests of users of railway services (section 4(1)(a))
 - promoting the use of the railway network for the carriage of passengers and goods (section 4(1)(b))
 - having regard to the funds available to the Secretary of State (section 4(5)(c))
29. We have looked very closely at all the evidence submitted from the parties and consultees. We have concluded that we should approve the application.



Conformed copy of the track access contract

30. 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 GTR. ORR's copy should be sent for my attention.

Public register and administration

31. Electronic copies of this letter, the approval notice and the supplemental agreement will be sent to the Department for Transport and Network Rail's Policy and Access Team. Copies of the approval notice and the supplemental agreement will be placed on ORR's public register (website) and copies of this letter and the supplemental agreement will be placed on the ORR website.

Yours sincerely

A solid black rectangular box used to redact the signature of Louise Beilby.

Louise Beilby