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Dear Katy and Sam

**9th Supplemental Agreement to the Track Access Contract between
Network Rail Infrastructure Limited (Network Rail) and Caledonian
Sleeper Limited (Caledonian Sleeper) dated 2 March 2018**

1. Today, we issued directions under section 22A of the Railways Act 1993 (the Act) to Network Rail and Caledonian Sleeper (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 provide additional journey opportunities for Caledonian Sleeper passengers at Birmingham International.

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.

Application

3. The purpose of this supplemental agreement is to grant Caledonian Sleeper the rights necessary to call its services at Birmingham International.
4. The rights are to commence on the Principal Change Date in December 2025 and will expire on the expiry date, i.e., the Principal Change Date (PCD) 2030 or earlier termination of Caledonian Sleeper's track access contract.
5. On 20 May 2024, Caledonian Sleeper submitted a section 17 application for a new

track access contract to 2030, firm platform occupation time rights for Southbound arrivals at Euston; and additional calls for existing firm rights to call at Birmingham International from PCD 2025.

6. On 4 September 2024, Caledonian Sleeper extended its existing contract to 2030 through an agreed section 22 application, so converted this application to an unsupported S22A for just the additional rights. We have directed the additional Birmingham International calls, but following discussions between the parties have not included firm platform occupation time rights at Euston. This letter explains our decision.

Industry consultation

7. The initial industry consultation took place from 22 May to 22 June 2024.
8. Comments in support or stating no objection were received from London TravelWatch, Transport Focus and West Midlands Trains. West Midlands Rail Executive responded advising of its strong support for the calls at Birmingham International. CrossCountry supported the application, after receiving additional information from Caledonian Sleeper regarding potential performance impacts. GWR supported the application, and advised of its future diversionary plans at Euston during Old Oak Common works.
9. Freightliner stated that it did not yet have enough information about other potential applications in the area and Network Rail's plans to accommodate them to be able to offer its support, nor about the final details of the ECML ESG timetable.
10. Avanti raised a number of detailed questions regarding pathing and operations, particularly around Birmingham International, but noted that with satisfactory responses it could support the application. Caledonian Sleeper responded to this request.
11. Industry was then invited to comment on Network Rail's final representations from 22 July to 5 August 2025. No further material comments were received.

Statutory Consultation

12. As required under the Act, on 30 May 2024, we sought Network Rail's representations on the application, and it replied on 28 June 2024. We forwarded these representations to Caledonian Sleeper on 3 July 2024 and asked for its comments. Caledonian Sleeper provided comments on 1 August 2024.
13. Following the completion of Network Rail's capacity analysis on the West Coast Main Line (WCML) it sent its final representations on 15 July 2025. Again, we forwarded these to Caledonian Sleeper and asked for its comments, which it provided on 30 July 2025.

Network Rail's representations

14. In its initial representations dated 28 June 2024, Network Rail stated that it was unable to support the application because it requested firm rights at locations which were part 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. It stated that to support these rights for the duration of the contract could be perceived as unduly discriminating against other operators.

15. In its final representations, Network Rail stated that it was now in a position to partially support the application, with some amendments to routing.
16. Network Rail supports the rights required to run services to Birmingham International from PCD 2025 but via a different route than initially requested in the S22A. To enable an additional call at Birmingham International to be incorporated into the service, the southbound portion of the Highlander (Service 570) from Fort William to Edinburgh Waverley is required to be re-routed via the E&G (Edinburgh & Glasgow) line instead of via Airdrie. The re-route via the E&G is to enable an earlier arrival at Edinburgh Waverley, and incorporate a Birmingham International call, without requiring significant changes to timings to the service between Rugby and London Euston, on the West Coast Main Line, where capacity is limited. It also allows for passengers from connecting ferry services to make the train by avoiding the need to alter the departure time from Fort William. This rerouting is in an area which is not one of the identified areas of competing applications or congested infrastructure.
17. Network Rail is content that, with the above routing changes, there is capacity to accommodate the above calls into the timetable, and also confirmed that it has no performance concerns with the proposal, especially given the calling time of this service at Birmingham International where there would be very few other services in operation.
18. Network Rail is not supportive of the reinstatement of firm platform occupation time rights for Southbound arrivals at Euston. Network Rail noted that “the rights being sought firm in this application for Platform occupation are already contained in the current contract as contingent” and that “whilst Network Rail recognises the unique nature of the Caledonian Services, Network Rail still needs to be able to maintain flexibility in the Timetable, especially where capacity constraints or operational limitations such as reduced platform availability exists”. Network Rail advised that this flexibility will be particularly important during HS2 works and Euston redevelopment.
19. Caledonian Sleeper has confirmed that it is content with progressing the supplemental in line with Network Rail’s position as set out above, and would then “revisit the position regarding the reinstatement of these [Euston] platform occupation rights via a separate application at an appropriate point in the future”.

ORR review

20. 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.
21. Based on the representations made by the parties with regards to the rights applied for, we proceeded with consideration of solely the request for rights to call at Birmingham International station, and did not consider the request for firm Euston platform

occupation rights.

22. Overall, we concurred with Network Rail's assessment that there is sufficient capacity to accommodate the Birmingham International calls, noting the proposed routing alterations, and that the calls will not unduly impact performance due to the times of day they are proposed to operate.

Our duties under section 4 of the Act and our decision

23. 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)); and
- promoting the use of the railway network for the carriage of passengers and goods (section 4(1)(b)).

24. We have looked very closely at all the evidence submitted from the parties and consultees. We have concluded that we should partially approve the application in the form set out in this letter and accompanying directions notice.

Conformed copy of the track access contract

25. 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 Caledonian Sleeper. ORR's copy should be sent for my attention.

Public register and administration

26. Electronic copies of this letter, the directions notice and the supplemental agreement will be sent to the Department for Transport and Network Rail's Policy and Access Team. Copies of the directions 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

David Reed