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Dear Lysette and Kate

**59th Supplemental Agreement to the Track Access Contract between
Network Rail Infrastructure Limited (Network Rail) and Northern Trains
Limited (trading as Northern) dated 3 March 2016**

1. Today, we issued directions under section 22A of the Railways Act 1993 (the Act) to Network Rail and Northern (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 create a large number of additional passenger opportunities between Leeds and Sheffield 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 Northern the rights necessary to operate new services between Leeds and Sheffield. There will be 16 weekday services, 16 Saturday services and 14 Sunday services operating in each direction.
6. The rights are to commence on a contingent basis upon the Principal Change Date (PCD) in December 2025 and will expire on the expiry date (PCD 2027) or earlier termination of Northern's track access contract.

Industry consultation

7. The initial industry consultation took place from 22 May to 24 June 2024.
8. Industry was then invited to comment on Network Rail's final representations from 8 July to 18 July 2025.
9. In the initial consultation, comments in support or raising no objections or concerns were received from West Yorkshire Combined Authority, Transport Focus, South Yorkshire Combined Authority, Great Western Railway (GWR), Avanti West Coast and DB Cargo.
10. Also in the initial consultation, CrossCountry, Grand Central, GB Railfreight and Freightliner all stated that they 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 their support, nor about the final details of the ECML Event Steering Group (ESG) timetable.
11. The Rail North Partnership and Amey Infrastructure Wales were both supportive of the proposal while acknowledging that its accommodation was dependent on the ongoing work on the ECML ESG timetable.
12. London North Eastern Railway (LNER) stated that it still held firm rights to operate services that were not being accommodated in the timetable and that further infrastructure work was necessary to accommodate both LNER's rights and those proposed by Northern, requesting a timetable study to support delivery of these.
13. When industry was invited to comment on Network Rail's final representations, GWR again commented in support of the application, and we had a further response from LNER. It expressed concern about LNER's ability to run future aspirations if rights are granted to Northern, about increased traffic on the Leeds-Sheffield route being likely to

reduce timetable resilience, and that the proposed short turnaround times at Leeds increase the risk of delay.

14. ORR noted LNER's concerns and we will address the performance and timetable concerns later in this decision letter. It should also be noted that since its initial response to the consultation LNER has surrendered the rights it held that were not being accommodated in the timetable.
15. Network Rail's view is that the access rights in Northern's 59th supplemental agreement align with the PCD 2025 timetable and, while there is a possibility they could interact with the LNER Leeds service, they are not the primary reason that its rights could not be accommodated.

Statutory Consultation

16. 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 Northern on 3 July 2024 and asked for its comments. Northern provided comments on 22 July 2024.
17. Following the completion of Network Rail's capacity analysis on the ECML, it sent its final representations on 4 July 2025. Again, we forwarded these to Northern and asked for its comments, which it provided on 18 July 2025.

Network Rail's representations

18. In its initial representations dated 28 June 2024, Network Rail stated that it was unable to support the application because it requested firm rights on the ECML at Leeds, 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. It stated that to support these rights for the duration of the contract could be perceived as unduly discriminating against other operators.
19. In response to the initial representations, Northern stated that there was uncertainty over when the ECML ESG timetable would be implemented and hoped that Network Rail would continue to work towards finding a solution.
20. In its final representations, Network Rail stated that, while the rights sought are in line with what was expected in the proposed timetable, it is supportive of them only on a contingent basis for 12 months, from PCD 2025 to PCD 2026, with no presumption of continuity. The reasons it gave for this position are that these services do not currently run and they represent a significant increase on the use of capacity. As there are expected performance concerns associated with the introduction of the ECML ESG timetable, significantly increasing capacity usage along this corridor is likely to reduce resilience within the timetable and make recovery from disruption more difficult. Delays are more likely on this route in particular because of the short turnaround times at Leeds for these services, which are close to the minimum allowed under the Timetable Planning Rules (TPRs), and this could affect other services and cause knock-on delays.

21. Network Rail also stated that the ECML Industry Taskforce recommended a “soft launch” approach for Northern’s services on this route, which would stagger the introduction of the services to minimise the impact on performance. It wanted to monitor this for an initial period of 12 months before any decision is made to allow the rights to be granted on a firm or longer-term basis.
22. Northern stated that it understood Network Rail’s concerns but pointed out that the performance risk is not limited to the Leeds-Sheffield services and it is not Northern’s responsibility alone to manage and mitigate this risk – other operators will also need to run their services on time. It was aware that the turnaround times at Leeds are close to the minimum specified in the TPRs but pointed out that those at Sheffield are much longer. It also stated that the “soft launch” approach is something that Northern has considered implementing from PCD 2025 to mid-January as a temporary measure to assist with the timetable introduction, but that it has not agreed to any further service reduction and intends to fully exercise the rights after this initial month.
23. Northern proposed as a compromise solution that it should be granted the rights on a contingent basis to the end of its contract (PCD 2027). It noted that it would ideally prefer the rights to be firm and that it did not believe Network Rail had sufficiently demonstrated why it had applied this approach.

ORR review

24. 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.
25. We agreed with Network Rail that the additional services proposed by this application may have an impact on timetable and network performance. However, we believe that the performance concerns Network Rail describes are reflective of the wider ECML timetable introduction and it has not properly quantified the specific impact of these services.
26. Regarding the specific concerns around turnaround times, we noted that those at Leeds station are close to or at the minimum TPR turnaround times, but we believe that these are partially mitigated by the fact that most of the proposed services have longer turnarounds at Sheffield. Beyond this, we did not see any specific issues with performance.
27. 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 ECML ESG timetable for December 2025.
28. 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.

29. 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.
30. 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.
31. 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.
32. 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.
33. Overall, we have concluded that Network Rail has not provided sufficient evidence to support its position on these services, compared with other services that it supports on a firm basis on the ECML. The services are in line with what was expected in the proposed December 2025 ECML Timetable and are in line with what Northern submitted in its Access Proposal at D-40 for the December 2025 timetable.
34. We believe, however, that it is sensible to adopt a cautious approach to the introduction of these services, given that there is a large number of them, they are new to the timetable and there are legitimate performance concerns around their introduction. We have therefore decided to grant the rights on a contingent basis until the expiry date of Northern's track access contract, as opposed to the one-year term supported by Network Rail.

Our duties under section 4 of the Act and our decision

35. 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)); and
- having regard to the funds available to the Secretary of State (section 4(5)(c)).

36. We have looked very closely at all the evidence submitted from the parties and consultees. We have concluded that we should direct the parties to enter into the supplemental agreement in the form set out in this letter.

Conformed copy of the track access contract

37. 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 Northern. ORR's copy should be sent for my attention.

Public register and administration

38. 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

A large black rectangular box redacting the signature of Louise Beilby.

Louise Beilby