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Dear Paul and Sue

18th Supplemental Agreement to the Track Access Contract between Network Rail Infrastructure Limited (Network Rail) and First Trenitalia West Coast Rail Limited (trading as Avanti West Coast (AWC)) dated 1 December 2022

1. This letter outlines the decision we have made on this application under section 22A of the Railways Act 1993 (the Act) to Network Rail and AWC (jointly the parties), and in due course, we will direct the parties to enter into the above supplemental agreement. This letter explains the reasons for our decision. ORR's approval of this application will improve passenger connectivity between Liverpool Lime Street and London Euston.

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. This application was submitted to us as part of that process on 17 May 2024.

Application

4. The purpose of this supplemental agreement is to grant AWC the rights necessary to operate an additional Sunday evening return service between London Euston and Liverpool Lime Street on a **contingent** basis.
5. The rights are to commence upon the Principal Change Date (PCD) in December 2025 and will expire on the Subsidiary Change Date (SCD) in May 2026. Our usual policy of a strong presumption of the continuation of existing rights will not apply for the rights granted in this application beyond SCD 2026.

Industry consultation

6. The initial industry consultation took place from 22 May to 22 June 2024. Industry was then invited to comment on Network Rail's final representations from 27 June to 11 July 2025.
7. In the initial consultation, comments in support or stating no objection were received from West Midlands Trains, Transport Focus, DB Cargo and Amey.
8. GB Railfreight and Freightliner both 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 West Coast Main Line (WCML) timetable.
9. London TravelWatch (LTW) sought reassurance about any potential performance impact of the services at Euston and Watford Junction, which AWC provided to LTW's apparent satisfaction.
10. Arriva Rail London asked AWC to confirm that the introduction of these services would not impact on its own operations and expressed concern that the timing loads had not been specified during consultation.
11. Wrexham, Shropshire and Midlands Railway (WSMR) commented to the effect that it had not identified any clashes with its own proposals but noted that there appeared to be unused paths in the timetable which it wanted to utilise itself. The WSMR application has since been rejected by ORR.
12. The Virgin Group also commented on the unused paths and pointed out AWC's poor current timetable performance and the electrical power supply constraints on the WCML. Again, Virgin's application has since been rejected by ORR but its comments on timetable performance are relevant to Network Rail's analysis.
13. When industry was invited to comment on Network Rail's final representations, no further comments were received. We have concluded that the lack of response from industry to the most recent opportunity to comment means that there are no outstanding objections to AWC's application.

Statutory Consultation

14. 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 AWC on 3 July 2024 and asked for its comments. AWC provided comments on 22 July 2024.
15. Following the completion of Network Rail's capacity analysis on the WCML, it sent its final representations on 20 June 2025. Again, we forwarded these to AWC and asked for its comments, which it provided on 9 July 2025.

Network Rail's representations

16. In its initial representations dated 30 May 2024, Network Rail stated that it was unable to support the application because it requested rights on the WCML South 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 were several other applications which impacted on the WCML. It stated that to support these rights for the duration of the contract could be perceived as unduly discriminating against other operators.
17. In its response, AWC noted Network Rail's position and stated that it remained confident that the services within this application were deliverable with the network capacity available and that it would work collaboratively with industry partners to restore these services.
18. In its final representations, Network Rail stated that it was still not supportive of this application. It pointed to its WCML Representations of 7 February and 25 April that stated concerns about capacity, timetable performance and congested infrastructure. On this latter point, the declaration of congested infrastructure in May 2020 still applies and precludes Network Rail from granting additional firm rights on the WCML South Fast Lines between Camden South Junction and Ledburn Junction. Significantly, it noted that the theoretical capacity of the additional access rights would utilise firebreaks within the timetable structure and have a significant detriment to performance.
19. In its response to the final representations, AWC stated that it strongly believed that there was sufficient capacity to operate the services it applied for. It pointed towards some performance improvements that it believed it had recently made and that its current fleet of hybrid rolling stock was providing passengers with a better experience. It did not agree with Network Rail's view of capacity and performance and remained convinced that its application could be accommodated. It did acknowledge that the rights would be new additions to AWC's track access contract and so it had not been possible for it to carry out any analysis on how they might be expected to perform.

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. On 6 May 2020, Network Rail formally declared the WCML South Fast Lines (from London to Leighton Buzzard) as Congested Infrastructure. A declaration of congested infrastructure by Network Rail does not mean that parties cannot apply for access or that ORR cannot grant access. We do, however, consider this a relevant consideration in our assessment of capacity.
22. Network Rail's WCML South Congested Infrastructure Report (November 2020) concluded that no significant additional capacity could be utilised between Camden South and Ledburn Junction without harming performance. This application includes services which would utilise capacity in an area that has either been declared congested or which Network Rail is considering declaring congested.
23. The restructured December 2022 timetable produced an additional hourly path between London Euston and Liverpool in each direction, while also providing for five paths a day between London Euston and Stirling/Preston. However, even without additional rights being allocated, timetable productions have eroded space since ORR's decision to approve rights between London Euston and Stirling for Grand Union Trains Limited (now First Rail Stirling) services in March 2024. Network Rail's position is that nine theoretical paths in each direction remain throughout the day and that these now act as 'firebreak' paths. Firebreak paths are planned gaps or unused time in the timetable used to recover from delays. Network Rail has provided clear evidence that the firebreaks are frequently used for this purpose.
24. Network Rail's simulation modelling produced for the planned WCML timetable expects that overall performance on WCML will deteriorate once the additional AWC London Euston to Liverpool and First Rail Stirling services are introduced in the timetable period from December 2025. The introduction of the services in these applications, in addition to those already approved by ORR, would trigger a notable impact to network performance through increased knock-on delays. Network Rail concludes that there is very limited spare track capacity during peak periods, with the network already operating close to its limits.
25. Our review of the wider capacity and performance information on the WCML, evidence from the applicants and the information we requested from Network Rail leads us to agree with Network Rail's position. In arriving at our conclusions on WCML capacity and performance, we have assured ourselves that Network Rail is taking a fair and non-discriminatory approach to all applications from public and private sector operators on the WCML South. We are satisfied it is taking a consistent approach.
26. However, in the case of this application, while we appreciate that Network Rail is being consistent and we do not believe that it was incorrect to take the position of non-support for the requested rights, we have concluded that we do not agree with this position. We have carried out our own examination of the available paths and the one utilised by this proposed service is consistent with one utilised in the existing weekday timetable structure introduced by the industry in December 2022. While there are minor timing adjustments due to engineering allowances, the overall structure remains aligned with the weekday pattern. Importantly, the proposed services do not occupy one of the paths identified by Network Rail as critical for managing performance on the

WCML South Fast Lines. This distinction supports the view that the rights can be accommodated without having a significant impact.

27. Additionally, the WCML is a four-track railway comprising designated Fast and Slow Lines. However, as identified in the Engineering Access Statement, this configuration is temporarily reduced to a two-track operation for engineering purposes until midday on Sundays, and again from approximately 21:00 onwards. This reduction significantly constrains available capacity during those periods, but the services in this application are timed to operate into and out of Euston during the four-track period, when infrastructure capacity is restored. This enables overtaking and allow late-running services to be re-sequenced with minimal impact, and is relevant in assessing the relative impact the service on timetable robustness and network performance.
28. The service will be running during Sunday evening, so the value and benefit to performance from retaining a spare path is reduced compared to earlier in the day. Finally, AWC applied for contingent rights, not firm, so the preclusion of any granting of firm rights in an area of congested infrastructure is not a factor here. However, we are placing a time limit on the rights to give Network Rail the opportunity to monitor performance and capacity.
29. We concluded that we would direct the parties to enter into this supplemental agreement for AWC to be granted the rights in the form set out in this letter.
30. We will now work with the parties on the details of the supplemental agreement that we will direct Network Rail to enter into. The parties will need to engage with us at pace to enable this to happen promptly to provide certainty for the December 2025 timetable.

Our duties under section 4 of the Act and our decision

31. We have considered this supplemental agreement, and we have concluded that its direction 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))
 - 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))

Conformed copy of the track access contract

32. 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 AWC. ORR's copy should be sent for my attention.



Public register and administration

33. 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



Louise Beilby