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Dear Erin and Robbie

65th Supplemental Agreement to the Track Access Contract between Network Rail Infrastructure Limited (Network Rail) and Transpennine Trains Limited (trading as TransPennine Express (TPE)) dated 3 March 2016

1. Today, we issued directions under section 22A of the Railways Act 1993 (the Act) to Network Rail and TPE (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 ensure continuity of service for passengers using existing services on the East Coast Main Line (ECML) 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. This application was submitted as part of that process on 20 May 2024.

Application

4. The purpose of this supplemental agreement is to amend TPE’s track access contract as follows:

    - Extend existing 5 x weekday, 5 x Saturday and 6 x Sunday PLUS additional 3 x weekday, 3 x Saturday and 2 x Sunday **contingent** rights for services in each direction between Edinburgh Waverley and Newcastle (making a total of 8 x weekday, 8 x Saturday and 7 x Sunday);

    - Extend existing 1 x weekday and 1 x Saturday **contingent** rights for services from Newcastle to Manchester Victoria;

    - Extend existing 7 x weekday and 7 x Saturday **contingent** rights for services from Huddersfield to Leeds; and

    - Extend existing 6 x weekday and 6 x Saturday **contingent** rights for services from Leeds to Huddersfield.

5. This application also removes 2 x weekday and 2 x Saturday rights in each direction between Edinburgh Waverley and Berwick upon Tweed that are no longer required for operating services.

6. All of these amendments will be effective from the Principal Change Date (PCD) in December 2025 and will expire on the Subsidiary Change Date (SCD) in May 2026, with no presumption of the continuation of these additional rights beyond SCD 2026.

7. The original application also requested 6 x Saturday and 6 x Sunday additional rights in each direction between York and Scarborough, but TPE has since stated that it no longer requires these so they were not included in the decision. Additionally, it requested 1 x weekday, 1 x Saturday and 1 x Sunday additional services from Manchester Victoria to Newcastle, which was not supported by Network Rail and has not been granted for the reasons explained later in this letter.

8. To maintain service continuity before we took a decision on this application, the rights were previously granted on a contingent basis with no presumption of the continuation of these additional rights beyond PCD 2025. Most recently, these were put in place or extended as part of the agreed S22 75th and 78th supplemental agreements, but in some cases the rights have been in place since PCD 2024.

Industry consultation

9. The initial industry consultation took place from 23 May to 28 June 2024, noting that the application at that time included a wider range of rights across TPE’s operated network and was intended to be effective from PCD 2024. Most the rights were subsequently separated into agreed applications (67th and 75th supplemental agreements) and approved for one timetable period only on a contingent basis. Some other rights that were part of the original application have since been withdrawn as they are no longer required.

10. Industry was then invited to comment on Network Rail's final representations from 5 to 19 September 2025.

11. In the initial consultation, comments in support or raising no objections or concerns were received from Great Western Railway, Northern, Amey Infrastructure Wales, Avanti West Coast and Transport Focus.

12. CrossCountry, Freightliner, GB Railfreight and DB Cargo 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.

13. LNER requested clarification on the proposed start date for this and another application (63rd) which has since been withdrawn. Grand Central stated that it was supportive only of amendments and additional rights where these aligned with the proposed ECML ESG timetable.

14. When industry was invited to comment on Network Rail's final representations, LNER sent a further response where it asked whether appropriate capacity, performance and power modelling had been conducted for the rights requested beyond those expected in the timetable and expressed concern for the possibility that these might be granted without this having been done. As will be explained later in this letter, ORR is only supporting those rights which were part of the timetable, so we do not consider this query to be relevant to our decision. LNER has since confirmed that it has no further queries as long as there has been appropriate capacity, performance, and power modelling on the expected rights for PCD 2025.

Statutory Consultation

15. 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 TPE on 3 July 2024 and asked for its comments. TPE provided comments on 22 July 2024. As with the industry consultation, these representations and comments reflected the fact that the application at that time included a wider range of rights across TPE's operated network. Therefore, some of Network Rail's response related to elements that have since been removed from the application.

16. Following the completion of Network Rail's capacity analysis on the ECML, it sent its final representations on 4 September 2025. Again, we forwarded these to TPE and asked for its comments, which it provided on 26 September 2025.

Network Rail's representations

17. In its initial representations dated 28 June 2024, Network Rail stated that it was unable to support the application because it requested rights on the ECML and 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 and Leeds. It stated that to support these rights for the duration of the contract could be perceived as unduly discriminating against other operators.

18. In its initial response to these representations, TPE disputed the statement that it had not given Network Rail enough information to make a decision, pointed out that many of its requests were already in the base timetable, and queried why the representations had not acknowledged ongoing projects such as the Transpennine Route Upgrade which were intended to support service improvements in the long term.

19. In its final representations, Network Rail stated that it was partially supportive of this application, where the rights sought were in line with what was expected in the proposed ECML ESG timetable. This was excepting those rights where the bid did not match the December timetable; in these cases, Network Rail was not supportive of what had been requested. It also noted that TPE had confirmed the rights between York and Scarborough were no longer required, so these were not now included in its consideration.

20. TPE's response largely accepted Network Rail's position. It agreed that the number of rights that Network Rail was prepared to support between Leeds and Huddersfield was in line with what was now required, compared with what was applied for, noting that these rights were now running on a contingent basis so should now be treated as requests for extensions and not for new services as in the original application. It also agreed that the services between York and Scarborough were no longer required. TPE also noted that the Newcastle to Manchester rights were requested as part of the PCD 2025 bid but subsequently notified as being no longer required.

21. TPE also stated that it did not agree with Network Rail's inclusion of power supply issues in its representations without explanation of how this was relevant to access rights that support existing services, but as it did not disagree with Network Rail's position on the access rights that could be supported, this was not a relevant factor in our decision.

ORR review

22. 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.

23. During our review, we considered Network Rail's assessment that power supply was an issue in this case. Network Rail highlighted power constraints which already exist for TPE on the ECML, including ad hoc running of ten cars and trains running between Newcastle and Edinburgh. Network Rail stated that the same mitigations will need to continue as they do currently and will need to be included in the new rights. We broadly agree with this position, noting that the services are already operating at the same quantum as is in the application, and are therefore already included in the power modelling for the relevant areas.

24. 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.

25. 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.

26. 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.

27. 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.

28. 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.

29. 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.

30. Overall, we concurred with Network Rail's assessment on the basis that it has approached this application in a fair and reasonable way that is in line with its approach to the ECML ESG timetable modelling and development, and with the approach it has taken to other applications applying for additional ECML capacity.

31. We would point out that this application was only for the extension of existing contingent rights for one further timetable period, and that the time taken for Network Rail to reach a conclusion on what it was prepared to support was somewhat protracted. However, these issues notwithstanding, we concluded that we would issue directions in the form set out in this letter and accompanying directions notice.

Our duties under section 4 of the Act and our decision

32. 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)).

Conformed copy of the track access contract

33. 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 TPE. ORR's copy should be sent for my attention.

Public register and administration

34. 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

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Louise Beilby