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Executive, Access & Licensing

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Dear Megan and Chris

24th Supplemental Agreement to the Track Access Contract between Network Rail Infrastructure Limited (Network Rail) and Freightliner Limited (Freightliner) dated 11 December 2016

1. Today, we issued directions under section 22A of the Railways Act 1993 (the Act) to Network Rail and Freightliner (jointly the parties) to enter into the above supplemental agreement. This letter explains the reasons for our decision.
2. The rights in this application are for new intermodal services between deep sea ports and inland terminals and updates to existing services to reflect current train paths.
3. These directions provide Freightliner certainty for the purposes of planning its business, giving clarity to train planners and a stable train plan. This is supportive of the UK's broader decarbonisation strategy and the growth of freight moved by rail.

Background

4. 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

5. The original application was for 11 new 1 hour window firm rights, 23 amended 1 hour firm rights and 2 relinquishments related to intermodal traffic between deep sea ports and inland terminals. NR was partially supportive of the application, requiring some amendments to the rights and changes sought to align with the timetable. It did not support one of the new rights and Freightliner has confirmed since the original application that a further 5 rights are no longer required.
6. The application was then updated to 10 new 1 hour window rights, 18 amended 1 hour window rights and 2 relinquishments.
7. The new 1 hour window rights contained in the application are currently running under Contingent Rights, originally for the December 2024 timetable as a General Approval in the 27th SA, and now dated until the end of May 25 in the 29th SA General Approval submitted in line with the [Interim Approach](#) taken by Network Rail.
8. The rights are to commence on a firm basis upon the date that the supplemental agreement is entered into by the parties and will expire when the contract expires at Principal Change Date 2026.

Industry consultation

9. The initial industry consultation took place from 24 May to 24 June 2024. Industry was then invited to comment on Network Rail's final representations from 6 to 20th August 2025. Some consultees asked for additional time which was agreed.
10. In the initial consultation Cross Country responded that it had concerns that some of the services might impact the performance if its own, however there was insufficient information available at the time and so it objected generally. It did not respond to the opportunity to comment in August 2025.
11. Following the opportunity to comment in August this year, GTS objected to this and other applications on the basis that it had insufficient information to make an assessment. NR responded that ***'TRUST is an industry system so all operators, including GTS, should have access to it and pull out the relevant information themselves particularly as the December 2025 timetable is already uploaded into it'***. GTS were not satisfied with this response and NR then provided some additional reports to aid its assessment.
12. GTS has since requested ***'the performance modelling that has been undertaken'*** for 6 of the services in this application. NR has not yet responded. The 6 rights in question have been running as contingent rights since at least December 2024 and so performance issues with these services would likely be evident from publicly available data.
13. We responded to GTS to advise that its comments have been noted and considered, and that we would be moving to take a decision on this application in advance of the timetable change in December so we can provide certainty to the operator and Network Rail. We are satisfied that the information we have received to date from the applicant,

Network Rail and stakeholders is enough for us to make a decision in line with our duties.

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 Freightliner on 4 July 2024 and asked for its comments. Freightliner provided comments on 18 July 2024.
15. Following the completion of Network Rail's capacity analysis on the East Coast Main Line (ECML) and West Coast Main Line (WCML) and the other interacting locations associated with this application, namely Birmingham, Birmingham to Derby, Derby to Sheffield and Oxford, it sent its final representations on 1 August 2025. Again, we forwarded these to Freightliner and asked for its comments, which it provided on 19 August 2025.

Network Rail's representations

16. In its initial representations dated 28 June 2024, Network Rail stated that it was unable to support all the rights in the application noting that it requested new and amended firm rights that pass through most of the interacting locations identified by Network Rail as containing competing aspirations and subsequently listed by ORR in its letter of 24 April 2024: *'Network Rail can confirm that we will not be able to in this representation provide all the necessary information for ORR to make an informed decision at this point in time.'*
17. In its final representations Network Rail notes that all supported rights have been accommodated into the December 2025 timetable. 10 rights required amendment to be supported and Freightliner agreed to those changes, updating its application accordingly. A number of conflicts with other applications were identified in the final representations, including with GB Railfreight's 34th application. We asked Network Rail to identify which of the GB Railfreight rights conflicted with the Freightliner application and following further investigation, it confirmed that there was no longer any conflict. All other conflicts have been resolved.
18. Four rights in this application are for train services which operate with electric locomotives, the remaining rights all use diesel traction. The four services operating with electric locomotives currently run on the WCML, large parts of which are operating at or near power system capacity. Three of these rights are for existing services for which Freightliner has requested minor amendments, so not supporting the rights would not impact power supply issues.
19. The fourth right is a new firm right, 4L67 (SX) Trafford Park – Felixstowe. Network Rail only support this right as contingent *'Due to the concerns raised in the West Coast Main Line General Representation letter dated 25 April 2025, specifically the section on Power Supply Modelling'*.
20. For all freight applications, Network Rail has assessed the performance of each headcode against the following criteria:

- Right Time Departures (RTD) - average above 80% over 13 periods = pass
- FOC on Other Operators delay - less than 5 instances over 13 periods = pass

Three services have not met the criteria but are supported with robust mitigation plans in place.

ORR review

21. 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.
22. The rights in this application interact with all interacting locations except Gloucester and Cardiff. However, all have been running for some time and are well understood. Network Rail has demonstrated its confidence in the new rights by running them as contingent for 2 timetable periods and supporting them in its final representations.
23. Network Rail supports 4L67 (SX) Trafford Park – Felixstowe North as contingent only due to power concerns on the WCML. We consider that this is consistent with what has been supported in other applications and reasonable in order to provide a level of certainty for Freightliner in the short term, however we would expect the parties to provide specific power supply analysis to support firm rights at a future date.
24. We reviewed the comments and mitigation plans in place for the 3 services that did not meet Network Rail's performance criteria and concluded that they have been adequately addressed.
25. 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.
26. Overall we concurred with Network Rail's assessment regarding capacity and performance and have directed the rights as included in Freightliner's 24th supplemental agreement.

Our duties under section 4 of the Act and our decision

27. 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))

28. 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

29. 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 Freightliner Limited. ORR's copy should be sent for my attention.

Public register and administration

30. Electronic 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

Margret Haswell