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Dear Erin and Robbie

58th 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 improve availability of services for passengers across TPE's operational routes 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. TPE submitted this application as part of that process on 20 May 2025.

Application

4. The purpose of this supplemental agreement is to grant TPE the rights necessary to operate services as follows:
 - 10 additional contingent rights for services in each direction between Manchester Piccadilly and York via Wakefield Kirkgate and Castleford;
 - Terminating and starting current firm and contingent Scarborough services at Manchester Victoria instead of Liverpool Lime Street and Manchester Piccadilly;
 - Contingent rights for services between Edinburgh and Newcastle, and Edinburgh and Berwick Upon Tweed; and
 - Additional contingent rights from Newcastle to Manchester Victoria.
5. The amendments will be effective from the Principal Change Date (PCD) in December 2025. The rights between York and Manchester will expire on PCD 2026 with no presumption of continuity; the rest will expire on the expiry date (the Subsidiary Change Date (SCD) in May 2027) or earlier termination of TPE's track access contract.

Industry consultation

6. The initial industry consultation took place from 23 May to 28 June 2024. Industry was then invited to comment on Network Rail's final representations from 3 to 17 October 2025.
7. In the initial consultation, comments in support or raising no objections or concerns were received from DB Cargo, Great Western Railway, Northern, Amey, Avanti West Coast (AWC), West Yorkshire Combined Authority and Transport Focus.
8. Also in the initial consultation, Grand Central said that it was supportive only of amendments and additional rights where these aligned with the proposed East Coast Main Line (ECML) Event Steering Group (ESG) timetable. Transport for Wales had no concerns but did ask some questions about pathing and stabling, which were answered at the time.
9. When industry was invited to comment on Network Rail's final representations, AWC asked Network Rail to clarify how and where the application had any relevance to the West Coast Main Line (WCML). Its representations referenced that the WCML performance challenges are relevant to this application, but AWC did not believe that the proposed rights related to the WCML South fast lines.
10. Network Rail responded that its WCML General Representation letter contained commentary on Manchester and the TransPennine Route Upgrade (TRU), which are relevant to TPE's application. Network Rail therefore referred to that General Representation letter in the representations.

Statutory Consultation

11. As required under the Act, we sought Network Rail's representations on the application, and it replied on 28 June 2024. We forwarded these representations to TPE and asked for its comments, which it provided on 22 July 2024.
12. Following the completion of Network Rail's capacity analysis on the ECML and the other interacting locations associated with this application, namely Sheffield, it sent its final representations on 30 September 2025. Again, we forwarded these to TPE and asked for its comments, which it has, to date, failed to provide.

Network Rail's representations

13. 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: King's Cross to Edinburgh and Leeds, and at Sheffield, which were two 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 one or both of the ECML and Sheffield. It stated that to support these rights for the duration of the contract could be perceived as unduly discriminating against other operators.
14. 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 TRU which were intended to support service improvements in the long term. It also requested more explanation of the references to power supply.
15. In its final representations, Network Rail stated that it was now partially supportive of the amendments in the application. It was prepared to support most of the application where the quantum of rights requested matched with the ECML ESG and Prior Working Timetable (PWTT) bids. There were several lines where what had been requested was above what was expected in the timetable(s), and in these cases, Network Rail only supported up to the expected quantum and nothing additional.
16. There are also several instances where TPE proposed to relinquish rights that Network Rail believed it needed to retain to operate the timetable and therefore did not support these reductions. Where the existing quantum still fell short of what was required to operate the timetable, Network Rail expected TPE to submit an additional application to cover these.
17. Where Network Rail supported rights, this was mostly on the basis requested, i.e., firm or contingent, to the end of TPE's contract, but there were some exceptions. The rights between York and Manchester, via Wakefield and Castleford were supported at the quantum identified but on a contingent basis only and for 12 months to PCD 2026 with no presumption of continuity. This was due to performance concerns.
18. Network Rail was also not supportive of additional access rights to and from Saltburn, as TPE currently holds a number of access rights for Saltburn, but the services

originate and terminate at Redcar instead. Network Rail did not support additional access rights where capacity will be held at a location not being used. It expected TPE to surrender these via the appropriate mechanism.

19. At the time of writing, TPE has failed to provide a response to Network Rail's representations. It was initially given a deadline of 14 October and did not respond to further communications about this extending the deadline to 30 October. We have advised TPE that, without any statement to the contrary, we have proceeded on the assumption it does not have any specific comment or objection to make on Network Rail's representations. We have given TPE a fair opportunity to comment and we are now progressing with our decision in order to ensure that it has the necessary rights in place to operate its PCD 2025 timetable.

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. We do not consider power supply to be an issue in this case because the trains TPE proposes to use on this route do not require electrical traction to operate. However, there are constraints in some of the areas where these services operate, which may require future mitigations should TPE wish to use its electric fleet here.
22. 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.
23. 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.
24. 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.
25. 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.
26. 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.

27. 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.
28. Overall, we concurred with Network Rail's assessment of this application. We consider that it has approached its analysis 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.
29. Where rights have been granted on a contingent, time-limited basis, specifically for the services between Manchester Piccadilly and York via Castleford and Wakefield Kirkgate, the evidence supplied shows that the current performance delivery of this service group is relatively poor. We concur with this assessment and have concluded that this provides a reasonable justification to support Network Rail's position on these rights.
30. We also note Network Rail's comments regarding access rights that are not currently being used between Redcar and Saltburn. We would add here that we expect the operator and the infrastructure manager to work together to identify any unused access rights and ensure that they are relinquished via the appropriate statutory mechanism where the operator is unable to demonstrate that these will be used in the near future.
31. We concluded that we would direct the parties to enter into this supplemental agreement on the basis of those rights that Network Rail is prepared to support.

Our duties under section 4 of the Act and our decision

32. 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))
 - 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))

33. 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 and accompanying directions notice.

Conformed copy of the track access contract

34. 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

35. 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 solid black rectangular box used to redact the signature of Louise Beilby.

Louise Beilby