Edd Marston
Executive, Access & Licensing
Email [redacted]

18 November 2025

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Phil Read
CEO
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Dear Jules and Phil

2nd Supplemental Agreement to the Track Access Contract between Network Rail Infrastructure Limited (Network Rail) and Varamis Limited (Varamis) dated 5 August 2022

1. Today, we issued directions under section 22A of the Railways Act 1993 (the Act) to Network Rail and Varamis (jointly the parties) to enter into the above supplemental agreement. This letter explains the reasons for our decision.

   ORR's approval of this application contributes to supporting significant ongoing investment in equipment, staff and infrastructure from Varamis, its customers and the wider rail industry. Varamis has worked to assist its customers by providing electric traction express parcel services. The train paths in this supplemental agreement are core to that work providing greater certainty for freight customers operating in the United Kingdom. These directions provide Varamis certainty for the purposes of planning its business and its ability to deliver further benefits through future investment.

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 add 8 new one-hour window firm rights, and a further 8 aspirational firm rights.

6. All rights in this application have been in the timetable since December 2024 as time-limited contingent rights as part of Network Rail’s interim contingent rights policy, prior to this they were in the timetable as a Train Operator Variation Request, and as such, had no contractual certainty.

7. 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 2029.

8. Since the original submission of this application, 2 rights were added in June 2024 between Birmingham International and Liverpool Lime Street. Those rights were not bid for in the December 2025 timetable or prior timetables and have been subsequently removed. Varmis have agreed to remove 6 aspirational rights that ran on the ECML that were not included in the ECML Event Steering Group work, additionally Varamis agreed to remove the remaining 4 aspirational paths as they were not bid for in the December 2025 timetable. This left the application with 8 rights currently running as contingent seeking direction as firm rights. We have assessed these amendments and are content they are consistent with ORR’s amendments policy

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 29 April to 14 May 2025.

10. In the initial consultation, comments in support or raising no objections or concerns were received from Northern Rail, Transport Focus, GB Railfreight, First Trenitalia West Coast and Grand Central Trains.

11. MTR Elizabeth Line (MTREL – operator of the Elizabeth Line at the time of consultation), Govia Thameslink Railway and London Travelwatch, requested further

time or additional information before being able to definitively support or not support the application.

12. LNER objected to the application on the basis that it didn't agree to any additional services on the ECML. The rights in this application utilising the ECML have been withdrawn and as such we consider LNER's objection to have been resolved.

13. Further comments were received on this case when Network Rail's final representations were shared with industry in May 2025 from MTR Elizabeth Line who objected on the basis that there was insufficient information to determine the impact of the aspirational services between Birmingham International and London Liverpool Street. These rights have been removed from the application and as such we consider MTREL's objection to have been resolved.

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 Varamis on 5 July 2024 and asked for its comments. Varamis did not provide comment.

15. Following the completion of Network Rail's capacity analysis on the ECML, on 14 March 2025 and the other interacting locations associated with this application, namely the Cardiff area, it sent its final representations on 11 July 2025. Again, we forwarded these to Varamis and asked for its comments, which it provided on 19 September 2025.

Network Rail's representations

16. In its initial representations dated 28 June 2024, Network Rail stated that it was unable to support the application because it requested new and amended firm rights that pass through several of the interacting locations identified by Network Rail as containing competing aspirations and subsequently listed by ORR in its letter of 24 April 2024.

17. In its final representations, Network Rail stated that it was now in a position to support the access rights sought in this application with some minor changes relating to timings and stops and the withdrawal of rights that had either been removed from the timetable or were no longer resourced. It went on to note for the remaining rights that '*if rights were not awarded by ORR, the paths would have to be removed from forthcoming timetables. Not only would outcome be inconsistent with the regulatory targets to support freight growth, it is likely that the business would not disappear and it could be reasonably expected that the freight operators would re-bid using the provisions in the model freight contract and the Network Code*.'

18. Network Rail only supports train reporting number 1M05 (running Monday to Friday inclusive) from Mossend to Birmingham International as a contingent right due to constraints on power on the West Coast Mainline – this service runs through a constrained area during a time when Network Rail's power modelling suggests power supply might be at or near capacity.

19. In its response Varamis noted that they were happy with the Network Rail representations.

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. The rights in this application have been running in the timetable since 2023. Network Rail has assessed the performance of each Train Reporting Number against the following criteria:

    - Right Time Departures - average above 80% over 13 periods = pass
    - Freight Operating Company on Other Operators delay - less than 5 instances over 13 periods = pass

    All of the services passed this assessment and Network Rail confirmed they are satisfied that the services are performing well and require no additional analysis.

22. Since 2019, Network Rail has offered operators only contingent or time-limited rights, providing limited certainty for businesses. The ECML Event Steering Group (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.

23. 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.

24. 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.

25. 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.

26. 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.

27. Overall, we concurred with Network Rail's assessment regarding capacity and performance and have directed the remaining 8 rights, after withdrawals and amendments as included in Varamis' 2nd supplemental agreement.

Our duties under section 4 of the Act and our decision

28. 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)(b))
- 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))

29. 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

30. 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 Varamis Limited. ORR's copy should be sent for my attention.

Public register and administration

31. 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

Edd Marston