

Edd Marston
Executive, Access & Licensing
Email [REDACTED]

24 November 2025

Hayley Wood
Customer Manager
Network Rail Infrastructure Ltd
Waterloo General Office
London
SE1 8SW

John Carpenter
Senior Policy & Performance Manager
Colas Rail Operations Centre
Mill Road
Rugby
CV21 1BE

Dear Hayley and John,

10th Supplemental Agreement to the Track Access Contract between Network Rail Infrastructure Limited (Network Rail) and Colas Rail Limited (Colas) dated 11 December 2016

1. Today, we issued directions under section 22A of the Railways Act 1993 (the Act) to Network Rail and Colas (jointly the parties) to enter into the above supplemental agreement. This letter explains the reasons for our decision.
2. ORR's approval of this application contributes to supporting the industrial mineral, construction and petroleum industries across the country, to which rail transport is critical for both raw materials and finished products. The train paths in this supplemental agreement are core to significant ongoing investment in equipment, staff and infrastructure that Colas and their customers have made. These directions provide Colas certainty for the purposes of planning its business and its ability to deliver further benefits through future investment.

Background

3. 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.

4. [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.
5. 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

6. The purpose of this supplemental agreement is to add 74 amendments to existing one-hour window firm rights and 45 new one-hour window firm rights, currently running as contingent rights. There are also 20 existing firm rights Colas wishes to relinquish as they are no longer running.
7. The contingent rights in this application have been in the timetable since December 2024 as time-limited contingent rights as part of Network Rails interim contingent rights policy. They were also running prior to that as Train Operator Variation Rights (TOVR). The existing firm rights to be amended have been in the timetable for at least two years.
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.
9. Since the original submission of this application, 4 rights have been withdrawn by Colas as they are no longer required, 4 rights do not have a corresponding path in the timetable so have been removed. Traffic from Dalston to Grangemouth has ceased since the application was submitted, 11 rights have been removed that relate to that. A further 3 rights have been removed as they relate to ceased Lindsey – Preston Docks traffic. Haverton Total traffic has ceased, 6 related rights have been removed for that reason.

Paths linked to 6M32 were not included in the ECML December 2025 timetable and have been removed. A path aligned to a right in the Colas 10th SA has not been accommodated due to a conflict with a firm right held by another operator so has been removed.

6E66 Oxwellmains Lafarge – Hunslet Yard is foul of a Section 4 possession opportunity LN902.01 Micklegate Jn to Church Fenton North Jn (Inc.) in the December 2025 Working Timetable; being non-compliant with the Engineering Access Statement, a sub-set of the Operational Rules, No appropriate alternative compliant path was found



so the right was removed from the application. We have assessed these amendments and are content they are consistent with ORR's amendments policy.

Industry consultation

10. 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 22 July to 5 August 2025.
11. In the initial consultation, CrossCountry raised a query regarding whether 6E54 running Fridays only as a 'Y-Path', was routed via Darlington and whether this was, therefore, a contractual routing. Network Rail confirmed that this existing Firm Right would continue to have a contractual routing via Darlington. CrossCountry confirmed that they were satisfied that this resolves their query.
12. No further comments were received on this case when Network Rail's final representations were shared with industry in July 2025.

Statutory Consultation

13. 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 Colas on 4 July 2024 and asked for its comments. Colas confirmed it had no comments on 29 July 2024.
14. 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 Sheffield area, it sent its final representations on 17 July 2025. Again, we forwarded these to Colas and asked for its comments, which it did not provide.

Network Rail's representations

15. 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 withdrawal of rights that had either been removed from the timetable or were no longer resourced or where rights were amended to align with the timetable. 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.'*

ORR review

16. 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.

17. 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

Aside from four rights, for Train Reporting Numbers (6N03, 6M51, 6E59, 6M24), 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.

For the rights that did not pass the criteria, the following mitigation plans are in place:

6N03 - performance for this service shows 78.3% on-time despatch (77.6% for the previous 3 months). The comments related to Lindsey are also relevant to this service and this flow will also benefit from use of the updated wagons.

6M51 – this service ran sporadically during the early part of 2025, as the end customer did not secure the timber harvesting contract in South Wales. Services will return later in the year. An on-time despatch policy has recently been agreed with the end customer on their other flows

6E59 – performance for this service has improved in recent periods achieving 87.5% on-time despatch in period 13 (94.2% for the previous 3 months). Colas Rail have been working with Network Rail and DB Cargo to look at ways of improving performance at Kingsbury. It has been identified that the departure delays are terminal issues rather than operator performance. As a result, adjustments to the train timings have been agreed by all parties, and it is expected that this will result in an increase in performance when they are implemented.

6M24 - performance for this service has improved in recent periods achieving 94.7% on-time despatch in period 13 (86.2% for the previous 3 months). Prax, the end customer, have suffered a number of operational issues at Lindsey, mostly around shunt loco and wagon failures (causing wagons to be shunted out of train formations at short notice). Prax supply all wagons for this contract and have been active in sourcing additional wagons into their fleet, with 41 joining the fleet imminently.

As Kingsbury is the primary delivery location, updated wagons have been targeted on this flow.

18. 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.

19. 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.
20. 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.
21. 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.
22. 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.
23. Overall, we concurred with Network Rail's assessment regarding capacity and performance and have directed 82 rights that Network Rail supports as included in Colas' 10th supplemental agreement accepting any amendment suggested in order to align those rights to the timetable. In addition, we direct the 27 relinquishments in this supplemental agreement.

Our duties under section 4 of the Act and our decision

24. 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))



25. 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

26. 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 Colas Rail Limited. ORR's copy should be sent for my attention.

Public register and administration

27. 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