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24 November 2025

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Dear Akaash and Scott

28th and 32nd Supplemental Agreements to the Track Access Contract between Network Rail Infrastructure Limited (Network Rail) and West Midlands Trains Limited (WMT) dated 15 May 2019

1. Today, we have made a decision on these two applications and, in due course, will direct Network Rail and WMT (jointly the parties) under section 22A of the Railways Act 1993 (the Act) to enter into a supplemental agreement (SA) covering both applications. This letter explains the reasons for our decision. ORR's direction of these applications will allow a number of different WMT services around Birmingham, Coventry, Worcester, Shrewsbury and other locations to run from the December 2025 timetable change and some of those services will be supported by firm rights and on a longer term basis than previously.
2. These applications have been considered together as they both amend the same service group (amongst others) in Schedule 5 of the contract and directing a single SA will mitigate any risk of the amendments being overwritten. In addition, there are a number of issues regarding both applications (a lack of clarity about what has been applied for, multiple errors in the current version of the contract, and as a consequence a lack of clarity about Network Rail's position) and we considered it appropriate to set out all of the detail of that in one decision letter.

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.

Applications

4. The 28th SA proposed that WMT be granted firm access rights to enable changes in the Liverpool, Birmingham and Shrewsbury areas of WMT’s services as well as extending some access rights that were approved in a previous application.
5. The 32nd SA application proposed that WMT be granted firm access rights necessary to operate services in the Birmingham, Worcester, Coventry and Northampton areas as well as some services on the lower part of the West Coast Main Line (WCML). The changes proposed in both applications were initially intended to be effective from the Principal Change Date (PCD) in December 2024.
6. The specific rights applied for, Network Rail’s final position on them and ORR’s decision on them are set out later in this letter.
7. Since the submission of these applications, in order to ensure these access rights were in place to support services in the December 2024 and May 2025 timetables, Network Rail and WMT submitted agreed section 22 applications (the 34th, 35th and 42nd SAs), containing the rights sought in this application each for one timetable period only on a contingent basis. Network Rail’s position was that there should be no presumption of the continuation of these additional rights beyond the relevant timetable periods.
8. To maintain service continuity, the rights in those applications were approved by ORR on that basis. WMT has retained these applications (the 28th and 32nd SA) to apply for the rights, on a firm basis, from PCD 2025 until the end of its contract (currently PCD 2026).

Industry consultation

9. The initial industry consultation for both applications took place from 20 May to 21 June 2024 and a number of comments were received. It should be noted that, for a period of time, Network Rail incorrectly described the 32nd SA as the 29th SA.
10. Industry was then invited to comment on Network Rail’s final representations for both applications from 1 to 20 August 2025. No further comments were received.
11. In the initial 28th SA consultation, comments in support or raising no objections or concerns were received from Avanti West Coast, DB Cargo, Great Western Railway, CrossCountry, Transport for Wales and Transport Focus. Arriva Rail London, GB Railfreight and Wrexham, Shropshire & Midlands Railway all said that they were unable

to support the application until Network Rail provided more information regarding the potential impact on their services.

12. In the initial 32nd SA consultation, comments in support or raising no objections or concerns were received from Avanti West Coast, DB Cargo, Great Western Railway, Transport Focus and West Yorkshire Combined Authority. Arriva Rail London said that it was unable to support the application until Network Rail provided more information regarding the potential impact on its services.
13. We have concluded that the lack of response from industry to the most recent opportunity to comment means that there are no outstanding objections to WMT's applications.

Statutory Consultation

14. As required under the Act, on 30 May 2024, we sought Network Rail's representations on both applications, and it replied on 28 June 2024. We forwarded these representations to WMT on 3 July 2024 and asked for its comments. WMT provided comments on 22 July 2024.
15. Following the completion of Network Rail's capacity analysis on the West Coast Main Line (WCML) it sent its final representations on 25 July 2025 (for the 28th SA) and 6 August 2025 (for the 32nd SA). Again, we forwarded these to WMT and asked for its comments. With regard to the 28th SA, WMT replied on 29 July 2025. With regard to the 32nd SA, WMT replied on 15 August 2025, requesting clarification and Network Rail to review its position regarding certain rights. Network Rail responded on 22 September 2025. As noted above, Network Rail's final representations were also shared with industry for comment from 1 to 20 August 2025.

Network Rail's representations

16. In its initial representations, dated 28 June 2024, Network Rail stated that it reserved its position pending the outcome of capacity and performance assessments,
17. WMT, in its response dated 22 July 2024, stated regarding the 28th SA that it had undertaken all the relevant work required for a positive decision on the application. Regarding the 32nd SA, WMT stated incorrectly that this application had already been approved by ORR. After discussion, WMT said that it had undertaken all the relevant work required for a positive decision on the application.
18. On 10 September 2024, we asked Network Rail to explain why it was not able to reach a conclusive position on a number of applications (including these two). On 27 September 2024, Network Rail replied and said that it was discussing short term "interim" applications with WMT but could not confirm a longer term view until a full analysis of all the interacting applications had been completed.
19. In its final representations, Network Rail stated that it could now support the rights in both applications on a firm or contingent basis, based on whether or not there were performance or power supply issues. It noted capacity issues relating to other

interacting applications. It also noted where there were either too many rights or too few rights compared to what services are in the December 2025 timetable.

20. WMT, in its response regarding the 28th SA stated that it was satisfied with the representations and had no comments to make.
21. In its response regarding the 32nd SA, WMT stated that the position set out in the representations required review and set out a different view about how some of the rights were expressed in the contract or aligned to the December 2025 timetable.
22. Network Rail's position on each right applied for in these applications, comments from WMT, responses to our queries and our decision is set out in the next section.

ORR review

23. 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.
24. On 6 May 2020, Network Rail formally declared the WCML South Fast Lines (from London to Leighton Buzzard) as Congested Infrastructure. A declaration of congested infrastructure by Network Rail does not mean that parties cannot apply for access or that ORR cannot grant access. Some of the services in this application run on the WCML, however we understand that they do not run on the Fast Lines. Therefore, we did not consider this a relevant consideration in our assessment of capacity.
25. Overall, we concurred with Network Rail's assessment of the capacity, performance and power supply issues relevant to these rights. We are supportive of the decisions made by Network Rail in these applications and have noted that Network Rail has been keen to support firm rights on a longer-term basis where this has been appropriate. We concluded that we would direct rights in line with what Network Rail supports.
26. However, both applications should have been straightforward to consider and for Network Rail to provide ORR with clear, detailed evidence taking into account all of the relevant issues and our review of these applications has been unacceptably prolonged by a variety of issues that should have been avoided.
27. WMT's applications lacked clarity about some of the rights applied for and there were discrepancies between the various application documents. In addition, it is clear that the rights applied for, over time, did not align with the services in timetables. The parties have been late in discussing these issues and, even when they were identified, there have been further delays in progressing additional applications to resolve these issues and ensure that WMT has the correct rights to allow it to run services in the December timetable change. We expect the parties to promptly review their additional PCD 2024 applications (which we understand to be 48th, 49th and 50th SAs) to ensure they contain all the rights required to run the services in the timetable and do not conflict with any other application. In addition, the parties have submitted an "interim" application (the 47th SA) which was meant to ensure rights were in place for the December timetable. Our decision in this letter should supersede that application.

28. Furthermore, we quickly established that there were significant errors in the contract, resulting from Network Rail failing to correctly consolidate it to reflect previous access decisions. This should have happened in the first place but, given that the final representations were considered at length by the Customer Team, the Sale of Access Rights Panel and the central team, those errors should have been identified and fixed before ORR's review and decision. In addition, there appears to have been a long running disconnect between the way some access rights are expressed in the contract compared to how they actually operate in the timetable. Those issues should have been resolved sooner.
29. We expect Network Rail to provide us with assurance that the contract will be consolidated correctly in future and both parties to provide us with assurance that access rights are correctly expressed in the contract and align with services in timetables.
30. Given there were issues regarding a lack of clarity on what has been applied for and multiple errors in the current version of the contract, we have set out our specific position on each of the rights applied for in both applications below.

Specific rights applied for in the 28th SA

1 additional Weekday right (from 35 to 36) from Wolverhampton to Birmingham New Street (Row 3.31 in Service Group EJ03 in Schedule 5 of the contract)

31. Network Rail stated that, due to power supply issues in the area, it supported this additional right on a contingent basis only until May 2026 with no presumption of continuity after that date. Network Rail's reasoning for this was poorly explained in its final representations and it was not clear why there was a different approach to its support of rights for this service on different days.
32. In response to our queries, Network Rail provided new information not contained in its representations. It said that there were concerns about power during certain peaks throughout the day and any new aspirations for capacity within this corridor could only be accommodated on a contingent basis while it monitored the power issues.
33. Taking into account this new explanation, we concur with Network Rail's assessment and support this additional right on the basis it has set out. In the contract, the relevant firm rights in table 2.1 of the contract will remain unchanged and in table 2.2, the expiry date of the current single contingent right will be extended to the Subsidiary Change Date (SCD) 2026.

2 additional Weekday rights (0 to 2) from Birmingham New Street to Crewe (Row 4.1 in EJ04)

34. Network Rail supported this on a contingent basis, until May 2026 with no presumption of continuity due to recent performance improvements needing to continue and be maintained. There is also the power supply issue (hence the existing contractual restriction on carriages).

35. We concur with Network Rail's assessment and support this additional right on the basis it has set out. In the contract, the relevant firm rights in table 2.1 of the contract will remain unchanged and in table 2.2, the expiry date of the current single contingent right will be extended to SCD 2026. This right is also footnoted in the contract to require it to operate as 4 carriage until only and the expiry date of that footnote will also be extended to SCD 2026.

1 additional Weekday right (1 to 2) from Crewe to Birmingham New Street (Row 4.4 in EJ04)

36. Network Rail did not support this right as there is only one Weekday service in the December 2025 timetable and an additional right is not required.

37. We concur with Network Rail's assessment. Table 2.1 contains a single firm right for this service. The single contingent right in table 2.2 expires at PCD 2025 and should not be extended.

4 additional Weekday rights (30 to 34) from Birmingham New Street to Shrewsbury (Row 4.8 in EJ04)

38. Network Rail had no concerns about performance in this area and stated that it supported the 4 additional rights proposed in the application on a firm basis until the end of the contract.

39. We concur with Network Rail's assessment and support the 4 additional firm rights proposed in the application. We noted that the number of contingent rights currently in the contract (5) seemed inconsistent with this application. We also noted that the application and some of the Network Rail letters were inconsistent and unclear about the number of rights applied for (although the final representations confirmed it was 4). The parties were not able to clarify what had happened.

40. Table 2.1 currently contains 30 firm Weekday rights for these services and should be uplifted by 4 in line with what appears to be in the application and Network Rail made a decision on. The 5 contingent rights currently in table 2.1 expire at PCD 2025 and should not be extended.

1 additional Weekday right (31 to 32) from Shrewsbury to Birmingham New Street (Row 4.9 in EJ04)

41. Network Rail had no concerns about performance in this area and supported the additional firm right proposed in the application until the end of the contract.

42. We concur with Network Rail's assessment and support the additional firm right proposed in the application. Table 2.1 currently contains 31 firm Weekday rights and this should be uplifted by 1. There are 2 contingent rights currently in table 2.1 which expire at PCD 2025 and these should not be extended. Our decision is based on what WMT appeared to have applied for and the corresponding decision Network Rail made in its final representations.

43. There was a similar lack of clarity on this right as with the above rights in the opposite direction, so it was unclear if WMT will require further rights to run the number of services included in the December timetable. If there are, they should be progressed via another application

1 additional Sunday right from Nuneaton to Coventry (Row 2.2 in EJ02)

44. Network Rail had no concerns about performance in this area and stated that it supported the additional single right on a firm basis until the end of the contract.

45. We concur with Network Rail's assessment and support this additional right on the basis it has set out. Table 2.1 currently contains 12 Sunday rights for these services and should be uplifted by 1. Table 2.2 currently contains a single contingent right expiring at PCD 2025 and this should not be extended.

2 additional Sunday rights between Crewe and Rugby (Row 2.31 (110) in EJ02)

46. Network Rail supports this uplift on a contingent basis, until May 2026 with no presumption of continuity as it says that performance is still lagging.

47. We concur with Network Rail's assessment and support these additional rights on the basis it has set out. We queried why table 2.1 in the current contract showed an incorrect number of firm rights (11 rather than 9) and Network Rail confirmed that this resulted from an error in consolidating the contract. Table 2.1 should be corrected to show 9 firm Sunday rights. The 2 contingent Sunday rights in table 2.2 expire at PCD 2025 and that expiry date should be extended until SCD 2026.

1 additional Sunday right (11 to 12) between Birmingham International and Birmingham New Street (Row 3.22 in EJ03)

48. Network Rail had no concerns about performance in this area and supports this uplift on a firm basis until the end of the contract.

49. We concur with Network Rail's assessment and support this additional right on the basis it has set out. The firm rights in table 2.1 of the contract should be uplifted from 11 to 12 and in table 2.2, the expiry date of the current single contingent right should not be extended.

1 additional Sunday right between Northampton and Birmingham New Street (Row 3.28 in EJ03)

50. Network Rail supported this on a contingent basis, until May 2026 with no presumption of continuity due to performance concerns. It also noted that there was a service in the December 2025 timetable that wasn't covered by this application and WMT needed to apply for that via an additional separate application.

51. We concur with Network Rail's assessment and support this additional right on the basis it has set out. We noted that there were further errors in the contract (table 2,1 showed 28 firm Sunday rights rather than 27 and table 2.2 showed 2 contingent

Sunday rights rather than 1). Table 2.1 will need to show there are 27 firm Sunday rights and table 2.2 will need to show that there is a single contingent right and that should be extended to SCD 2026. The missing right needs to be progressed in another application.

1 additional Saturday right between Wolverhampton and Birmingham New Street (Row 3.31 in EJ03)

52. Network Rail supported this on a firm basis until the end of the contract as performance was generally good. There was no reference in the final representations about any power supply issues (as there had been for the Weekday services on the same route).

53. We asked Network Rail for further clarification about this and it stated that modelling had identified power supply concerns at certain peaks during Weekdays. No issues had been identified on Saturdays.

54. Taking into account this new explanation, we concur with Network Rail's assessment and support this additional right on the basis it has set out. In the contract, the relevant firm rights in table 2.1 (34) of the contract should increase to 35 and in table 2.2, the expiry date of the current single contingent right is PCD 2025 and should not be extended.

1 additional Saturday right between Birmingham New Street and Crewe (Row 4.14 in EJ04)

55. Network Rail supported this on a contingent basis, until May 2026 with no presumption of continuity due to performance concerns and power supply issues.

56. We concur with Network Rail's assessment and support this additional right on the basis it has set out. Table 2.1 of the contract should remain unchanged and in table 2.2, the expiry date of the current single contingent right should be extended to SCD 2026.

Specific rights applied for in the 32nd SA

Reduction of 2 Sunday rights (from 10 to 8) for Birmingham Snow Hill to Worcester Foregate Street (Row 1.8 in Service group EJ01 in Schedule 5 of the contract)

57. This reduction was not referred to in the application form but was in the accompanying marked up tables that WMT provided. Network Rail noted that there are 9 services that relate to these rights in the December 2025 timetable and, consequently, it would only support the reduction of a single right, resulting in 9 remaining. WMT agreed that a single right needed removing rather than 2.

58. Our review was complicated by the fact that the contract was inaccurate and did not reflect what had been approved in previous applications (it showed 8 rights when the correct number was 10). We concur with Network Rail's assessment and support of a reduction of one single right. The relevant firm rights in table 2.1 of the contract should be reduced from 10 to 9. There are no contingent rights in table 2.2.

Additional 2 Sunday rights (from 0 to 2) for Birmingham Snow Hill to Worcester Shrub Hill (Row 1.9 in EJ01)

59. Network Rail does not support these proposed additional rights as they do not align with services within the December timetable and WMT would need to progress them in an additional separate application. WMT agreed that a further application would be needed.

60. The contract does not reflect the correct level of firm Sunday rights (it currently says that there are 2 when there should be 0). Network Rail has acknowledged this. We concur with Network Rail's assessment that the proposed rights should not be supported. Table 2.1 of the contract should remain unchanged. There are no contingent rights in table 2.2. The correct expression of these rights, aligning with the services in the December timetable, should be progressed in a separate application.

Reduction of 4 Sunday rights (from 12 to 8) for Worcester Foregate Street to Birmingham Snow Hill (1.19 in EJ01)

61. This reduction was not referred to in the application form but was in the accompanying marked up tables that WMT provided. Network Rail noted that there were ten services in the December timetable utilising these rights and, consequently, would only support a reduction of 2 rights (from 12 to 10). WMT agreed with this.

62. The contract does not reflect the correct level of firm Sunday rights (it currently says that there are 8 when there should be 12). We concur with Network Rail's assessment that there should be a reduction of only 2 rights. The firm Sunday rights in table 2.1 should be reduced from 12 to 10. There are 2 contingent rights in table 2.2, expiring at PCD 2025 and these should not be extended.

Additional 6 Sunday rights (from 0 to 6) for Worcester Shrub Hill to Birmingham Snow Hill (1.20 in EJ01)

63. WMT's application wasn't perfectly clear if an additional 2 or 6 rights were being proposed but Network Rail's decision was based on 6 rights. It said that, as performance was good, it supported these additional 6 rights on a firm basis, until the end of the contract.

64. We queried why the contract didn't reflect the correct level of firm Sunday rights (it showed 5 when it should have been 0). The explanation we received wasn't clear. We concur with Network Rail's assessment and support these additional rights on the basis it has set out. Table 2.1 of the contract should be uplifted from 0 to 6. There are 2 contingent rights in table 2.2, expiring at PCD 2025 and these should not be extended.

Additional 1 (from 1 to 2) Weekday right from Coventry to Birmingham New Street (3.26 in EJ03)

65. Network Rail said that there is only one equivalent service in the December timetable so the additional proposed right is not required. WMT commented that the additional right was originally starting at Coventry but is currently a Birmingham International to

Birmingham New Street service. After discussion, Network Rail and WMT agreed that the correct expression of these rights in the contract (reflecting how the services operate in the timetable) would need to be progressed in a separate application.

66. We concur with Network Rail's assessment that the proposed additional right should not be supported. Table 2.1 of the contract should remain unchanged (it currently shows 1 firm Weekday right). There is 1 contingent right in table 2.2, expiring at PCD 2025 and this should not be extended. The correct expression of these rights, aligning with the services in the December timetable, should be progressed in a separate application.

Additional 2 Saturday rights (from 1 to 3) from Birmingham New Street to Great Malvern (3.50 in EJ03)

67. Network Rail said that there are performance concerns in this area so was only willing to support the rights on a contingent basis until May 2026 with no presumption of continuity. WMT did not comment on this.

68. We queried if the contract reflected the correct position and Network Rail confirmed that it did not.

69. We concur with Network Rail's assessment and support these additional rights on the basis it has set out. Table 2.1 should reflect the correct position (1 Saturday firm right) and in table 2.2, the expiry date of the current 2 contingent rights should be extended to SCD 2026.

Additional 2 (from 0 to 2) Saturday rights from Great Malvern to Worcester Shrub Hill (3.61 in EJ03)

70. Network Rail said that there is only 1 of this service in the December timetable, so is supportive of only 1 additional firm right until the end of the contract. It also said that there is a Great Malvern to Worcester Foregate Street service (i.e. terminating short of Worcester Shrub Hill) and rights for this need to be progressed in a separate application.

71. WMT accepted that the second additional right needed a separate application but also said that it wanted the right to remain as contingent (as currently expressed in table 2.2 of the contract). Further discussions between the parties seemed to suggest that they were content to allow a contingent right to remain in the contract despite it not reflecting how services ran in the timetable.

72. We noted that this was another example of the rights in this contract not reflecting how services run in the timetable. We concur with Network Rail's assessment that one additional firm Saturday right can be supported. We do not concur with the parties' apparent position that the second additional right can be supported as contingent despite it not aligning with services in the timetable.

73. Table 2.1 of the contract should be uplifted from 0 to 1. There are 2 contingent rights in table 2.2, expiring at PCD 2025 and these should not be extended.

Additional 1 Saturday right (from 2 to 3) for Birmingham New Street to Coventry (3.24 in EJ03)

74. Network Rail said that there are performance concerns in this area so was only willing to support the rights on a contingent basis until May 2026 with no presumption of continuity. WMT did not comment on this.

75. We concur with Network Rail's assessment and support this additional right on the basis it has set out. Table 2.1 currently reflects the correct position (2 Saturday firm rights) and in table 2.2, the expiry date of the current single contingent right should be extended to SCD 2026.

Additional 1 (from 0 to 1) Sunday right from Great Malvern to Worcester Shrub Hill (3.61 in EJ03)

76. Network Rail said that it does not support this additional right as there is no corresponding service in the timetable and no requirement for the additional right. WMT did not comment on this.

77. We concur with Network Rail's assessment. Table 2.1 is correct and doesn't contain any firm right for this service. The single contingent right in table 2.2 expires at PCD 2025 and should not be extended.

Additional 2 Sunday rights (from 27 to 29) from Northampton to Birmingham New Street (3.28 in EJ03)

78. Network Rail said that there are remaining performance concerns so it only supports the continuation of the contingent rights until May 2026 with no presumption of continuity. WMT did not comment.

79. We queried why the contract appeared to incorrectly show an additional firm right (28 not 27). Network Rail confirmed that this was an error in the contract. We concur with Network Rail's assessment and support these additional rights on the basis it has set out. Table 2.1 needs to show 27 firm Sunday rights. There are 2 contingent Sunday rights in table 2.2, expiring at PCD 2025 and these should be extended until SCD 2026.

Additional 1 Sunday right (from 0 to 1) from Northampton to Coventry (3.29 in EJ03)

80. Network Rail said that there are remaining performance concerns in this area so was only willing to support the right on a contingent basis until May 2026 with no presumption of continuity. WMT did not comment on this.

81. We concur with Network Rail's assessment and support this additional right on the basis it has set out. Table 2.1 is correct and does not contain firm rights for this service. Table 2.2 contains 1 contingent Sunday right, expiring at PCD 2025 and this should be extended to SCD 2026.

Reduction of 2 Saturday Rights (from 4 to 2) from Euston to Bletchley (5.3 in EJ05)

82. WMT's application form didn't refer to this change but it was contained in the marked-up Schedule 5 tables that accompanied the application. Network Rail said that it supported the reduction but there was only 1 equivalent service in the December timetable so there needs to be a further reduction. WMT did not comment on this.
83. We queried whether the contract was correct as table 2.1 contained 2 firm Saturday rights (we noted that this reduction had been in another application but the changes expired at PCD 2024 and the rights should have reverted back to 4). In response said it would discuss this with WMT and said that any further reduction needed would be in a separate application.
84. The correct number of firm Saturday rights in table 2.1 is 4. We support a reduction from 4 to 2 as this is what WMT applied for. That doesn't align with the equivalent services in the December timetable, so the parties need to rectify that in another application.

Reduction of 1 Sunday Right (from 2 to 1) from Euston to Bletchley (5.3 in EJ05)

85. WMT's application form didn't refer to this change but it was contained in the marked-up Schedule 5 tables that accompanied the application. Network Rail said that it supported this reduction. WMT did not comment.
86. We support this reduction from 2 rights to 1. The contract is also currently incorrect regarding the Sunday rights (for the same reason set out above for the Saturday rights). Network Rail acknowledged this and said that a new application would be progressed "to exercise the changes in the contract". Table 2.1 currently states incorrectly that there is a single firm Sunday right. This should have been 2 but now needs to be reduced to 1. There doesn't appear to be any further changes needed that would require a separate application.

Additional 1 Weekday (off peak) right (from 33 to 34) from London Euston to Milton Keynes Central (5.4 in EJ05)

87. Network Rail said that it supports this as a firm right. It did not refer to what was currently in the contract or if the level of rights aligned with the timetable. WMT did not comment.
88. We queried if WMT's description in its application of the number of off-peak Weekday it has in the contract was correct (the contract states that there are 33 in total, made up of 6 peak and 27 off-peak rights). Network Rail responded, "Service group EJ05 has been highlighted as another area that requires focus and attention as the current structure of the tables does not reflect the full level of operation of services. These will be tidied up in a new supplemental agreement."
89. Given that the parties still seem unsure if the correct rights were applied for, whether the current expression of those rights in the contract is correct and whether or not that

aligns with how services operate in the timetable, we do not consider it appropriate to support this additional right.

90. The parties need to explain the correct position in a new separate application for any rights that are required. In the meantime, the rights in table 2.1 should remain unchanged and the current single off-peak contingent right in table 2.2, which expires at PCD 2025, should not be extended.

Additional 2 (from 1 to 3) Weekday (off peak) rights from Milton Keynes Central to Northampton (5.25 in EJ05)

91. Network Rail said that there is a single service only in the December timetable and the additional rights are not required. WMT agreed that the third right is not required but said that the second right was required for a Milton Keynes to Birmingham New Street service. After discussion between the parties, Network Rail then said that it was in agreement that the third right was not required and this would be relinquished separately under Part J of the Network Code. Regarding the second right, Network Rail said that the parties needed to, “amend Schedule 5 to reflect how services operate in the timetable”.

92. We noted that the contract appeared to be incorrect (showing 2 firm Weekday (off-peak) rights when there should be only a single right) and queried this with Network Rail and also asked if there needed to be a separate application. Network Rail said that the second right that was required would be corrected in a separate application and there would also be “a separate review of the expression of peak and off-peak rights stipulated in the Schedule 5 tables”.

93. Network Rail did provide some updated tables with its response and this did correct the rights from 2 to 1, although this was not mentioned in the response. Therefore, the contract (when corrected and consolidated) reflects the correct position and aligns with the December timetable.

94. We do not support the additional rights applied for. There are currently 2 contingent Weekday (off peak) rights in 2.2, expiring at PCD 2025, and these should not be extended. The parties need to understand how the second right needs to be expressed in the contract and progress that via a separate application. A Part J relinquishment for the third right doesn't seem necessary but this is for the parties to establish.

Additional 1 (from 27 to 28) Saturday right from London Euston to Milton Keynes Central (5.4 in EJ05)

95. Network Rail said that there are only 27 services in the timetable and consequently doesn't support this proposed additional right. WMT responded by saying that there are 28 services in the timetable. After further discussion with WMT, Network Rail said that 1 Saturday right runs as service on Sunday morning but appears to be still within the definition of a day in the contract. Both parties have agreed to amend the contract “to reflect the correct level of operation of the service”.

96. We queried what specific changes the parties were proposing about this matter. We also queried if the contract was correct (it was showing 26 rather than 27 rights). Network Rail confirmed that the contract was wrong and should show 27 rights. It said that, after further discussion with WMT, a new separate application would “confirm the change to structure the tables correctly”.

97. Given that Network Rail accepts that the contract should be corrected to reflect 27 rights and that this aligns with the December timetable, we do not support the additional right. A solution for that issue will need to be progressed in the new, separate application. There is 1 contingent Saturday right in table 2.2, expiring at PCD 2025, and that should not be extended.

Additional 1 Saturday right (from 22 to 23) between London Euston to Northampton (5.42/110 in EJ05)

98. Network Rail said that there are 27 services in the December timetable. It said that it supported the additional firm right but that there should be a further review of the allocation of rights to support the December timetable. WMT didn't comment.

99. Network Rail had already confirmed, in response to an earlier query, that the contract was incorrect regarding these rights (23 rights when there should be 22). We asked what would happen regarding the additional rights needed. Network Rail confirmed that this service group in the contract would be reviewed and that any shortfall in rights would be covered in a separate application.

100. Table 2.1 in the contract should correctly read as 22 rights. We concur with Network Rail's support of an additional firm Saturday right which will increase this to 23. There is 1 contingent Saturday right in 2.2, expiring at PCD 2025, and this should not be extended. The parties need to review the position again and progress any shortfall in rights via a new separate application.

Additional 1 Sunday right (from 17 to 18) between London Euston to Milton Keynes Central (5.4 in EJ05)

101. Network Rail supports the proposed additional firm right (this was not set out clearly in the representation letter but was in one of the accompanying documents). WMT did not comment.

102. The contract relating to these rights appears to be correct. We concur with Network Rail's assessment and support this additional right on the basis it has set out. Table 2.1 should be uplifted from 17 Sunday firm rights to 18. Table 2.2 contains 1 contingent Sunday right, expiring at PCD 2025 and this should not be extended.

Additional 1 Sunday right (from 17 to 18) between London Euston to Northampton (5.42/110 in EJ05)

103. Network Rail says that there are only 17 services in the December 2025 timetable so the additional right is not required. WMT agreed that the additional right was not

required. Network Rail then said, “both parties agree that the additional service is not required and will be relinquished under Part J of the Network Code”.

104. We noted that the contract was incorrect and showed 18 firm Sunday rights in table 2.1 rather than 17. In response, Network Rail said that a further application would be progressed to ensure that the correct number of rights. It confirmed that the contract was incorrect.

105. We do not support the additional proposed right for the same reasons the parties now accept. Once corrected, table 2.1 of the contract will reflect the correct position. There is a single contingent right in table 2.2, expiring at PCD 2025, and this should not be extended. It doesn't appear that another application or Part J relinquishment is necessary, but this is for the parties to establish.

Our duties under section 4 of the Act and our decision

106. We have considered these two applications and we have concluded that our direction of them 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))

107. We have looked very closely at all the evidence submitted from the parties and consultees. We have concluded that we should direct the application on the basis that has been agreed between the parties and set out in this letter.

108. For the avoidance of doubt, we have noted Network Rail's position on the continuation of some of the additional rights, beyond SCD 2026. In light of this, our usual policy of a strong presumption of the continuation of existing rights will not apply for the extension of the relevant current or additional rights beyond SCD 2026.

109. We will issue a directions notice, reflecting this decision, in due course. WMT did not submit a draft SA with either application but now needs to work with Network Rail to promptly submit an SA that reflects the decisions we have set out regarding specific rights in this letter. **The parties should submit that SA no later than 28 November 2025.**



Conformed copy of the track access contract

110. 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 WMT. ORR's copy should be sent for my attention.

Public register and administration

111. Electronic copies of this letter, and in due course, 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



Jonathan Rodgers