

David Reed
Senior Executive, Access & Licencing
Office of Road and Rail
(by email only)

Andy Wylie
Head of Regulation & OA Contracts
First Rail

c.c. Gianmaria Cutrupi

2nd January 2026

Dear David,

First Rail Stirling Limited – Section 17 Application (XC Services)

Below are the FG comments on the NR representations

The commercial structures of the FirstGroup rail businesses are for FirstGroup to decide upon and are not relevant to this application process. Each agreement is separate, even they do trade under one company brand, and, for commercial reasons, there is no plan to combine them into one agreement with NR.

The main barrier to entry for Open Access operators is the supply of rolling stock. In the case of new (either to route or network) rolling stock, Rolling Stock Companies and Financiers will not seriously engage with OA applicants until the Rights have been awarded.

This has been known about since the very first OA application back in 1999 and to avoid Part F being an insurmountable barrier to entry, Rights for OA services are usually awarded by the ORR in advance of Part F being undertaken. This is allowed for in Part F and we quote from the explanatory notes:

“Where a Vehicle Change is required as a result of a Change of Law or a Direction from a Competent Authority, the normal Vehicle Change procedure will be applied.”

In this case the Competent Authority is the ORR and the Vehicle Change procedure follows the awarding of Rights. It does not excuse the applicant from that process, nor the relevant compatibility processes for bringing a new vehicle type to the Network or part of the Network.

We therefore reject the charge that the Vehicle Change process has not been followed. NR is being premature in insisting that it is concluded before the awarding of Rights. Following any such ORR award, the Part F process will commence.

In the Open Access world, we cannot accept poor or mediocre performance. It has a direct effect on our bottom line. The conflicts that exist in the NR report reflect the differing versions of the databases we are both using and we aim to be compliant with

the Rules (especially any restrictions listed in 5.2.2), but it must be recognised that databases change over time and even the May 2026 timetable will alter again before we will commence services.

Clear choices will have to be made over the use of paths by different operators. The NR letter seems to prefer certain operators to others and there has been no attempt to provide options to the ORR for them to determine who should get rights. The increased seating capacity of the FG services would seem to be a better use of the Network than those of CrossCountry.

The statements regarding level crossing risk seem to overplay risk in certain areas but the assertion that freight trains running sporadically creates less collision risk is simply wrong. Crossing misuse by assumptions over the regularity of services is well known, especially in areas where farm equipment is moved.

We note the NR comments about some of the drafting and once any directions have been issued, we would like to discuss any necessary contract revisions with NR.

Yours Sincerely

(signed)

Andy Wylie